
INTERNATIONAL REVIEW

OF THE RED CROSS

JAG SCHOOL

APR 04 1995

LIBRARY



Published every two months by the
International Committee of the Red Cross
for the International Red Cross
and Red Crescent Movement



INTERNATIONAL COMMITTEE OF THE RED CROSS

- Mr. CORNELIO SOMMARUGA, Doctor of Laws of the University of Zurich, Doctor h.c. *rer. pol.* of Fribourg University (Switzerland), Doctor h.c. in International Relations of Minho University, Braga (Portugal), Doctor h.c. of Medicine of Bologna University (Italy), Doctor h.c. of Nice-Sophia Antipolis University, Doctor h.c. of Seoul National University (Republic of Korea), *President* (member since 1986)
- Mr. PIERRE KELLER, Doctor of Philosophy in International Relations (Yale), banker, *Vice-President* (1984)
- Mr. CLAUDIO CARATSCH, Bachelor of Arts, *Vice-President* (1990)
- Mr. ULRICH GAUDENZ MIDDENDORP, Doctor of Medicine, lecturer at the Faculty of Medicine of Zurich University, former head of the surgical department of the Cantonal Hospital, Winterthur (1973)
- Mr. MAURICE AUBERT, Doctor of Laws, Barrister, Vice-President from 1984 to 1991 (1979)
- Mr. DIETRICH SCHINDLER, Doctor of Laws, Honorary Professor at the University of Zurich (1961-1973) (1980)
- Mrs. RENÉE GUIBAN, General Secretary of the international *Institut de la Vie*, head of medico-social institutions in the Canton of Vaud, member of the International Association for Volunteer Effort (1986)
- Mrs. ANNE PETITPIERRE, Doctor of Laws, Barrister, Professor at the Law Faculty of the University of Geneva (1987)
- Mr. PAOLO BERNASCONI, Barrister, LL. L., lecturer in economic criminal law at the Universities of St. Gallen and Zurich, former Public Prosecutor at Lugano, member of the Swiss *Pro Juventute* Foundation (1987)
- Mrs. LISELOTTE KRAUS-GURNY, Doctor of Laws of the University of Zurich (1988)
- Mrs. SUSY BRUSCHWEILER, nurse, Director of the Swiss Red Cross College of Nursing in Aarau (1988)
- Mr. JACQUES FORSTER, Doctor of Economics, Professor at the Graduate Institute of Development Studies in Geneva (1988)
- Mr. JACQUES MOREILLON, Bachelor of Laws, Doctor of Political Science, Secretary General of the World Organization of the Scout Movement, former Director General at the ICRC (1988)
- Mr. MAX DAETWYLER, graduate in Economics and Social Sciences of the University of Geneva, Scholar in Residence of the International Management Institute (IMI) of Geneva (1989)
- Mr. RODOLPHE DE HALLER, M. D., lecturer at the Faculty of Medicine of the University of Geneva, President of the Swiss Association Against Tuberculosis and Lung Diseases (1991)
- Mr. DANIEL THURER, LL. D., LL. M. (Cambridge), Professor at the University of Zurich (1991)
- Mrs. FRANCESCA POMETTA, Bachelor of Arts, former Swiss Ambassador (1991)
- Mr. JEAN-FRANÇOIS AUBERT, LL. D., Professor at the University of Neuchâtel, former member of the Swiss National Council and Council of States (1993)
- Mr. JOSEF FELDMANN, Ph.D., tenured professor at the University of St. Gallen, Corps Commander (Rtd.) of the Swiss army (1993)
- Mrs. LILIAN UCHTENHAGEN, Doctor of Economics of the University of Basel, former member of the Swiss National Council (1993)
- Mr. GEORGES-ANDRÉ CUENDET, Bachelor of Laws of the University of Geneva, graduate of the Institute of Political Studies of the University of Paris, M.A. from Stanford University (USA), member of the Administrative Council of Cologny, Geneva (1993)

EXECUTIVE BOARD

Mr. CORNELIO SOMMARUGA, *President*

Mr. CLAUDIO CARATSCH, *permanent Vice-President*

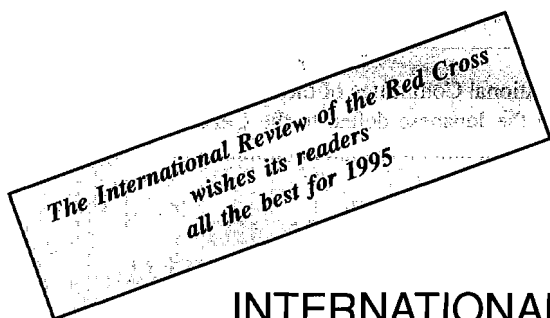
Mr. JACQUES FORSTER, *member of the ICRC*

Mrs. ANNE PETITPIERRE, *member of the ICRC*

Mr. PETER FUCHS, *Director General*

Mr. JEAN DE COURTEN, *Director of Operations*

Mr. YVES SANDOZ, *Director for Principles, Law and Relations with the Movement*



INTERNATIONAL REVIEW OF THE RED CROSS

CONTENTS

NOVEMBER-DECEMBER 1994
No. 303

1869-1994

125TH ANNIVERSARY OF THE *INTERNATIONAL REVIEW OF THE RED CROSS*

- The 125th anniversary of the *International Review of the Red Cross*,
by *Mr. Cornelio Sommaruga*, President of the ICRC 519

PRINCIPLES AND LAW

- Jean-Georges Lossier:** Anniversary message 522
Jean Pictet: The formation of international humanitarian law 526

CONTRIBUTIONS TO HISTORY

- Jacques Meurant:** The 125th anniversary of the *International Review of the Red Cross* — A faithful record — I. Protection and assistance 532
André Durand: The role of Gustave Moynier in the founding the Institute of International Law (1873) — The War in the Balkans (1857-1878); The Manual of the Law of War (1880) 542

517

| | |
|--|-----|
| Florianne Truninger †: The International Committee of the Red Cross and the Indochina War — From the Japanese defeat to the Geneva Agreements (1945-1954) | 564 |
|--|-----|

PROSPECTS FOR THE FUTURE

| | |
|---|-----|
| Jacques Moreillon: The promotion of peace and humanity in the twenty-first century — What role for the Red Cross and the Red Crescent? | 595 |
|---|-----|

INTERNATIONAL COMMITTEE OF THE RED CROSS

| | |
|---|-----|
| ICRC appoints a new member | 611 |
| Contents 1994 | 612 |
| Addresses of National Red Cross and Red Crescent Societies | 621 |

THE 125TH ANNIVERSARY OF THE INTERNATIONAL REVIEW OF THE RED CROSS

*The **International Review of the Red Cross** is 125 years old — an age which might well be called venerable, unless the term “honourable” is preferred, but in any case a surprising age for a publication.*

Periodical publications which have lasted for so long are rare indeed, and the number of such international and multilingual reviews can be counted on the fingers of one hand.

*Yet the phenomenon is less surprising when we bear in mind that the **Review** is the official publication of one of the oldest organizations with an international vocation and that it reflects the ideas and work of the International Red Cross and Red Crescent Movement; in fact, it bears witness to the continuity of a Movement which has brought assistance and protection to suffering mankind for 130 years.*

*To leaf through the thousands of pages of the **Review** is to relive the history of the Movement, practically day by day; it is to discover how a perfectly simple idea, engendered by Henry Dunant's humanitarian response, has given rise to a whole set of institutions now joined together in a Movement that has become universal; it is to understand how the policy and principles of the Red Cross and the Red Crescent, those tenets which, according to Jean Pictet, have been hammered out by the rough school of life, have gradually imposed themselves on the international community; and finally it is to follow the fascinating adventure of international humanitarian law, to which the **Review** has given special attention since its first issue of October 1869, when Gustave Moynier was already appealing for the promotion and development of the Convention of 1864.*

* * *

*From the **Review's** many articles on the mission and activities of the various components of the Movement, the reader will be able to gauge*

the extent to which the Red Cross has committed itself from the outset to promoting the welfare of humankind, how it has always borne the well-being of communities in mind by constantly adapting its mission and its tasks to their needs and how it has been the standard-bearer of progress in the struggle for human dignity and a peaceful world.

*The **Review** is a reflection of this eventful history of ICRC protection and assistance and of the humanitarian law underlying it, a history well deserved by the delegates in the field, the legal experts and all staff members, known and unknown. By their initiative, their competence, their faith and their perseverance, they have helped to limit the effects of violence and hatred on the battlefield and to establish humanitarian rules for the benefit of combatants and non-combatants; they have tried to ensure that the law prevails in all circumstances, particularly by making it better understood in order that it may be better respected.*

By focusing individually, in several special issues and series of articles over the past few years, on a wide variety of aspects of law, principles and humanitarian policy, by associating representatives of different schools of thought more closely with its studies and by increasingly assuming the role of a forum for ideas (since the Movement needs to listen to others), the Review has shown that it is indeed a valuable instrument for the dissemination of human values and that now as before it is contributing in its own way to the establishment of a culture based on solidarity and tolerance.

* * *

*On the occasion of this 125th anniversary, I should like to pay tribute to two exceptional people who have left their mark on the **Review**.*

*Jean Pictet, honorary Vice-President of the ICRC, is an exemplary "Red Cross man" who formulated the Fundamental Principles of the Red Cross and whose inspiration helped to bring the present Geneva Conventions into being. He has allowed the **Review** to be the first to publish a large number of his studies on various aspects of humanitarian law and principles, studies so masterly that they have become internationally authoritative. His pen has accomplished wonders, for by conveying his ideas and his profound convictions it has in turn convinced generations of diplomats, academics and members of the Red Cross.*

Jean Pictet has just celebrated his 80th birthday, and we should like once again to express our enormous gratitude to him and to wish him health and happiness in tranquillity.

*Jean-Georges Lossier guided the fortunes of the **Review** for over thirty years; he was the very soul of this publication, which he developed and adapted over the years, constantly upholding the tradition of quality in true respect for the Fundamental Principles of the Red Cross and the Red Crescent.*

He also enriched the in-depth coverage of the Movement and its work by his own reflections on solidarity and the spirit of service to others.

*The **Review** owes much to these two great servants of the Red Cross. May it continue to draw inspiration from their message for a long time to come.*

*Long live the **International Review of the Red Cross**!*

*Cornelio Sommaruga
President
International Committee
of the Red Cross*

ANNIVERSARY MESSAGE

by Jean-Georges Lossier

Few journals have the opportunity, as the *Review* has today, of celebrating their 125th anniversaries. A more suitable occasion could hardly be found to highlight the publication's important contribution to the study of a broad range of subjects, including the Fundamental Principles of the Red Cross and Red Crescent, international humanitarian law, the activities of the International Red Cross and Red Crescent Movement, the history of humanitarian ideas and of those who have championed them, world peace and international ethical standards. In fact, an outstanding feature of the *Review* over the past fifty years has been the very scope and diversity of the subjects it addresses. Two of these, among others, have played a significant role in the development of the Movement.

First of all, the *Review* had the privilege of publishing, in several instalments, the Fundamental Principles of the Red Cross as formulated by Jean Pictet, together with a detailed commentary thereof. This provided the Movement, which is constantly forced by events to focus on day-to-day practical matters, with a welcome chance to return to its philosophical origins. Soon afterwards the Council of Delegates, meeting in Prague, adopted its own set of concise Fundamental Principles. These Principles were essentially the same as the ones formulated by Mr Pictet, which had been widely circulated in the *Review* and represented a necessary first step towards defining the Movement's values.

Another crucial topic to which the *Review* has devoted several studies and which it was the first to address in depth is that of the Red Cross/Red Crescent and Peace. At a time when the Cold War loomed menacingly, the ICRC, through its publication, drew attention to the problem in response to the call of those who believed that humanitarian work was conducive to peace and that the Geneva Conventions, far from representing conscious acceptance of the rule of force, stood instead for the rejec-

tion of force since their aim was to limit the consequences of war and counter the inevitability of violence through legal rules.

The *Review*, by publishing articles on history and ethics, also invites its readers to ponder over the meaning of Red Cross/Red Crescent action and of humanitarian service itself in contemporary society. This is an especially important and relevant issue today, when the Movement is faced with increasingly difficult conditions and growing responsibilities. Indeed, the issue can hardly be ignored in such a period of uncertainty and violence, less favourable than ever for the flowering of humanitarian ideas. Yet it is precisely because the Movement, as other aid agencies, must grapple with the current situation that it is more determined than ever to pursue the work begun in Solferino. At the same time, it is attempting to understand how changes in society are affecting the conditions in which humanitarian work takes place and influencing its outcome and effectiveness.

The future is often conditioned by the past. It is especially important therefore that humanitarian institutions not lose sight of their origins in their approach to the sociological conditions and moral demands of their day-to-day work. Historically, the founding of the Red Cross was one of the outstanding events of a major movement which, at the end of the eighteenth century, advocated respect for all human beings, regardless of nationality, race, or political, religious or social affiliation. It is this very respect which is in jeopardy today and must be recognized at all costs. One way of furthering this aim is for individuals to rediscover a sense of belonging to the community. It is only by fostering constant communication with and reciprocal commitment towards others that each person assumes his or her own share of responsibility in promoting mutual respect.

Indignation is best expressed in acts, not words. Assistance should be given simply, in silence, in order to dispel shame or alleviate suffering, and it should be motivated not only by feelings of compassion, but also by the fact that harm done to the dignity of any person offends all humankind. In that way a helping hand takes on a deeper meaning, that of a protest against violence, barbarity and injustice, thereby proving that the law of universal necessity can be turned around and that our own humanity must forever be given renewed expression. And it is by assisting others that we can best fulfil this aim, heeding our inner longing to overcome the barriers of prejudice and intolerance. The Red Cross/Red Crescent therefore does not ask about a person's origins or destination, but only whether that person is in distress. It recognizes only one identity,

that of suffering, and responds to its call. It proclaims the supreme value of human life in the name of solidarity and holds that every life is equally precious. Thus ambulance workers on the front lines risk their own lives to save a single wounded person.

The Red Cross/Red Crescent urges faith in humankind. It justifies that faith by its very existence, which serves as a constant reminder to us of our own humanity, and it holds that peace, forever fragile, can be sustained by each and every one of us. If its appeal is to be heard, we must nurture the seeds of an immense hope, that of a more fraternal world. Yet all too often we are overcome by feelings of doubt generated by fear of what lies ahead. These feelings only lead to collective mistrust and passive acceptance of the inevitability of new conflicts and threats. Obsessive fear diminishes us, causing us to turn inwards instead of reaping the rewards that come from opening up and reaching out to others. As a result, cries of hatred drown out the voices of countless people of good will who work steadfastly for a better world.

The Red Cross/Red Crescent draws on a heritage common to all humankind, as the *Review* has shown in several articles dealing with respect for the individual in various religions and philosophies. At the Movement's invitation, thousands of women and men from all over the world with different mentalities have gathered together. Yet the Red Cross/Red Crescent itself does not endorse the values of any particular society. On the contrary, it is by not seeking to impose universally any one concept of morality that it has been able to become universal itself. It believes that a sense of solidarity encompasses, or in fact is, our deepest impulse, the one which enables us to give the best of ourselves.

Today, in the face of a constantly growing need for urgent assistance, humanitarian institutions are striving to affirm the inviolability of life and doing everything possible to promote recognition, in international legislation, of human rights — those rights which the Movement defends on the moral grounds first put forward by Henry Dunant. The Universal Declaration of Human Rights constitutes an ideal aim in this respect and a motivating force for all humanitarian work. The same is true of the Geneva Conventions and the other humanitarian law treaties, which provide vital protection against the excesses of war. Indeed, the International Conference for the Protection of War Victims convened in August/September 1993 declared: "In conclusion we affirm our conviction that, by preserving a spirit of humanity in the midst of armed conflicts, international humanitarian law keeps open the road to reconciliation, facilitates the restoration of peace between the belligerents, and fosters harmony between all peoples".

The Movement acts only with the consent of the parties concerned and is effective only provided it can count on collective and individual support and good will, and on the determination of all parties to respect their obligations. If no one were to take responsibility for the well-being of others, what strength would the Movement have left? To whom could it turn? This is especially true today, when war is waged without restraint, bringing about the displacement of large groups and leaving many people totally destitute, without family, homeland or even identity, forced to wander aimlessly, accepted for a time here or there and rejected elsewhere, desperately seeking a new lease on life. When States or individuals reject the principles embodied by the Red Cross/Red Crescent, the Movement's scope for action is diminished and its appeals meet with increased resistance. As a result, people accept revolting acts, blame cowardice on fate and lose faith in humanitarian work. The only way to restore that faith is by rising to the defence of humane values. This is an aim to which the *Review* has steadfastly contributed through the articles it publishes.

Jean-Georges Lossier joined the International Committee of the Red Cross in 1940 and worked there for 36 years. He was appointed Director of the Prisoners, Internees and Civilians Division in 1943 and then editor of the *International Review of the Red Cross* in 1946. He later became editor-in-chief in 1955 and occupied this post until 1976.

A writer and sociologist, he has published several collections of poetry and has been awarded four literary prizes. He has also written two major works which are still regarded as authoritative today: *Fellowship — The Moral Significance of the Red Cross* (1948) and *Les civilisations et le service du prochain* (1958). In addition, he is the author of numerous articles on the ideals and principles of the Movement.

The formation of international humanitarian law

by Jean Pictet

To mark his seventieth birthday, Jean Pictet, Honorary Vice-President of the ICRC, gave a lecture at the University of Geneva on 16 November 1984 entitled "The formation of international humanitarian law".

A remarkable summary of the development of humanitarian law in the twentieth century,¹ it concludes with remarks which go well beyond the original subject. They express his thoughts about the difficult relationships between humanitarian imperatives and military and political necessities and between idealism and pragmatism; reference is also made to everyone's responsibility to disseminate and apply a law which stems not only from humanity but also from common sense.

Ten years later, these words are still highly relevant today. They take on special significance in view of the steadily increasing violations of the law. They are also an appeal, especially to young people, to uphold humanitarian law and ensure that its influence is maintained.

*We felt that they should be published again in this edition for the 125th anniversary of the **Review**, which both revives memories of the past and looks to the future. The thoughts and ideas of Jean Pictet, who has done so much for humanitarian law, are always well worth consideration.*

¹ The full text of this lecture was published in the *Review* (No. 244, January-February 1985, pp. 3-24).

“We know that all of international humanitarian law results from the balance struck between the principle of humanity — that is, the imperative which drives a human being to act for the good of fellow beings — and the principle of necessity — that is, the duty of public authorities to preserve the State, defend its territorial integrity and maintain order. It is the perpetual confrontation of Creon and Antigone.

The demand of the Red Cross is that the conduct of hostilities and the maintenance of public orders do not ignore the respect due to the human person. In its works to promote law, the ICRC has always advanced along the knife-edge boundary separating these two worlds. It must constantly seek the true dividing line, know how far to go in its demands for the benefit of individual human beings. The angle of approach, between asking too much and asking too little, is very narrow, as narrow as for cosmonauts bringing their spaceship back into the earth's atmosphere — only a little higher or a little lower and everything is lost.

I will give two examples of the ICRC's methods. When the Red Cross was founded, Henry Dunant, the visionary, who listened only to his enthusiasm, wanted the treatment of prisoners of war to be dealt with at the same time as that of the wounded. But his colleagues, who were more cautious, made him accept the method of “one step at a time”. The first Geneva Convention, in 1864, was therefore concerned only with the sick and wounded in armies in the field. But it was signed and observed. The other Conventions then followed.

After the Second World War, when the ICRC, basing its work on the distressing observation put forward by experts, that the massive bombing of population centres had not “paid” off from the military viewpoint, drafted a set of “rules” to protect the civilian population against the dangers of war, the Powers made haste to bury it, since it contained an article which would have curbed their potential use of atomic energy.

Besides the balance between humanity and necessity, there is a very similar antithesis, the age-old opposition of Don Quixote and Sancho Panza, of idealism and practicality. In the preparation of humanitarian law, as in any great undertaking, nothing can be done without idealism, which is beyond comprehension. Though nothing but a spark in the darkness, idealism will kindle the fire which will become a blaze.

For the work to be successful, the secret is to keep it realistic. This is the lesson taught by our predecessors, men like Gustave Moynier, Paul Des Gouttes and Max Huber. Thanks to their wisdom, the Geneva Conventions have kept their high repute and their authority, and in spite of

many transgressions, they are generally observed. If the States agree to be bound by legal texts, it is because such texts correspond with their reciprocal and well understood interests. Nothing is more dangerous than "unbridled humanitarianism" acting from the best intentions but remote from reality, the very picture of "wishful thinking". It may well produce some fine writing, and perhaps a few gilded castles in the air, as evanescent as they are impressive.

What is more, a law which lacks realism will inevitably be violated. And a law violated even only in part will become a contested law, threatened with erosion followed by collapse. In the end, it is the very authority of law which is threatened. Briefly, in order to codify successfully, take two drops of dreams, one drop of madness and one hundred drops of realism, and blend thoroughly before serving. I make you a gift of the recipe.

The Geneva Conventions proceed from a concern for humanity, of course, but also, for many people, from common sense. To demonstrate this, in my seminars, I have suggested to my students, who still knew nothing about the Geneva Conventions, to think what ought to be laid down to regulate the conditions of captivity in wartime. At the end of the exercise they found, with some astonishment, that they had produced, in general outline, the whole of the 1949 Convention on the treatment of prisoners of war.

Likewise, humanitarian law has no hope of being accepted unless it is based on universal values and supported by principles which are really the underlying common ground of the human race. Since the time of Pascal and Montaigne we have known that morality is relative and that it can vary from one side of a mountain range to the other. The temptation to introduce professions of faith, whether philosophical or religious, into the Conventions is bound to lead to failure.

The opposing claims of humanity and necessity pose another problem: does the "progress" made in techniques of waging war, does the invention of new weapons bring the achievements of humanitarian law into question? In other words, will the dividing line of which I spoke be changed?

I think that major changes in combat methods will inevitably entail, sooner or later, a revision of the legal provisions precisely because the balance between necessity and humanity has been upset. On the other hand, the major principles of protection, which have become "customary in the second degree", that is, having an absolute value valid even for non-signatory States, will remain intact. What will happen, therefore, is no

more than an adjustment of the mechanisms, of the methods of application.

To give an example: the invention of bomber aircraft brought into question Article 25 of the Hague Regulations of 1907, which prohibited the bombardment of undefended localities, but only those in the rear, which had until then been inaccessible. The article, however, remained valid for areas reached by the front and which advancing troops had to respect. Today the new rules, established in 1977, permit the bombardment of military objectives but stipulate that the civilian population must be spared.

This is why the Powers, facing the vital problems raised by the discovery of nuclear energy, should waste no time in meeting around a table to pass comprehensive and definitive laws on the subject. There is no alternative if the world is to be spared the ultimate disaster.

*
* *

We have been told: instead of making rules for the conduct of war, you would do better to prevent it. This brusque statement is as old as humanitarian law, but it acquired fresh vigour with the ban on war and the definition of aggression. It is such a sophistry that I will not waste your time in discussing it. In a word: although the international community has outlawed war, the nations, alas, still wage it as much as ever. As long as the States, in arming themselves to the teeth, demonstrate that they have not really given up the idea, even in self-defence, then we have the inescapable duty to work for the protection of its victims if by misfortune war should break out. It is logical to attenuate the blows of a scourge until it has been eliminated. To tell the truth, simultaneous efforts should be made to regulate war and to abolish it, in each case using the means at disposal.

No doubt it was a good idea to proclaim the abolition of war, but it should be realized how much this spectacular gesture has cost. Since aggression has been condemned, nobody wants to put themselves in the wrong by declaring war, and some States even deny for long periods that they are in conflict. And of course the States in question are reluctant to apply humanitarian law, fearing that if they do so it will be taken as proof of their belligerence.

Some people have said to us: what use is it to develop law when in so many places it is trampled underfoot? It is true that humanitarian law is not always respected. But this ill also attacks other branches of law. Has not society created a huge apparatus of judges, courts and police solely in the expectation that the law will be violated? There is the additional factor that the media are more eager to report what goes wrong than what goes right, and therefore mainly report on transgressions of the law.

Even so, humanitarian law has tackled war directly with bare hands. Now war puts the very existence of States in jeopardy: engaged in a pitiless struggle, they think only of breaking any limitations. It moreover upsets the exercise of justice and tends to conceal offences against law, the more so as, unlike the process of national law, the system of penalties in international law is still in an embryonic state.

This law is consequently more difficult to put into effect than any other. But at least it has the merit of making clear to everyone what must be done and what must not be done in time of conflict. In the past many things were accepted which are now considered inadmissible. The law also makes it possible to define each person's responsibilities.

It is all the more remarkable in that it has saved many lives and mitigated a great deal of distress. But what will it be like in the future, in a world increasingly ruthless? This is the fearful question which haunts us.

States, it is true, often see only their own immediate interests and find it difficult to lift their gaze to world level. Combat, it is true, is conducted with fanaticism and it is a commonplace that the fiercer the fighting, the less respect for the rules. Violence, it is true, is now steadily growing, with outbursts of barbarity, and some people giving the name of war to terrorist outrages which strike at innocent people and which are in fact wholly criminal.

But in every age there have been exactions. If we think that nowadays they are more numerous, it is mainly because we hear about them more than people did in the past. In countries where there is freedom of information, abuses are publicly denounced, and fortunately so, since the pressure of public opinion acts as a brake on some of the excesses.

The abundance of information, of course, brings with it the risk of saturation, of "immunization". At the start of a conflict, each report of a death is distressing; after a few days, the list of victims is no more than a set of statistics, especially when the conflict is in a far-off country. The public interest wanes and indifference sets in.

Another danger is that, knowing the force of public opinion, the State's information services may go beyond all bounds in manipulating it, fomenting hatred between opposed nations not at all inflamed against each other. And once a war breaks out, massacres and tortures are systematically denounced, events are exaggerated or, if the need is felt, invented. In the end, suffering becomes a weapon used in the struggle, to such an extent that the ICRC has been reproached for moderating strong feeling by visiting prisoner-of-war camps and showing the falsity of some alarmist reports. Political detainees have even been known to exaggerate their misfortunes, or to refuse to improve their plight when given the means to do so, in order to give their comrades in the struggle an extra moral weapon against a regime they abhor.

Where are we going? Will the world finally know fraternity and peace, or will civilization destroy itself? Are we facing the "years of bloodshed" foreseen by Henry Dunant, or the Golden Age?

Probably neither one nor the other. But I am convinced that the victory of law over force offers the greatest hope for the survival of the human race. Remember, therefore, that this humanitarian law is in your hands. Make sure that it lives on, that it saves lives, that it spreads far and wide. I am speaking now above all to the young people, who will have the heavy responsibility of building tomorrow's world. All that we know of them gives us confidence in the future".

The 125th anniversary of the
International Review of the Red Cross

A FAITHFUL RECORD

by Jacques Meurant

Officers, soldiers, medical personnel and the inhabitants of areas near and far from the theatre of war — these are the categories of people whom writers should address to explain, in the language best suited to each, the basic humanitarian ideas and sentiments which it is so urgent to impress on their minds and hearts.

(Bulletin international des Sociétés de secours aux militaires blessés, No. 1, October 1869.)

When the Second International Conference of the Red Cross, held in Berlin in 1869, approved the principle of issuing a bulletin to be produced by the International Committee, its main aim was to help “central committees of various countries (...) maintain contact and learn of the official events and other facts which they should know”. Ever since, the *Bulletin international des Sociétés de secours aux militaires blessés*, renamed *Bulletin international des sociétés de la Croix-Rouge* in 1886 and *Revue internationale de la Croix-Rouge (International Review of the Red Cross)* in 1919, has continued to “ensure a steady flow of information and provide the necessary link between the members of the International Red Cross and Red Crescent Movement”. This was reaffirmed by the ICRC Assembly in March 1988 when, re-examining the nature and aims of the *Review*,

it stressed that the official organ of the ICRC was at the service of all the Movement's components, accurately reflecting its policies and reporting on its activities to the outside world.

Over the years the *Review* has faithfully carried out this permanent assignment, ever striving to keep its readers informed and above all to provide a forum for reflection regarding the mission of the Movement and the activities of its components. At the same time, it has shown a constant concern with the many and various humanitarian aspects of international events.

* * *

The history of the Movement as seen through the *Review* has yet to be written; perhaps one day it will arouse the interest of an historian or provide a student with a topic for his thesis. Our aim is more modest. Referring more particularly to the events of the past 25 years, which are more familiar to present-day readers, we shall endeavour to show how the *Review* has reported on ICRC protection and assistance activities, followed the development of humanitarian law and the policies which guide those activities, and attested to the Movement's acts of solidarity in its constant quest to ensure the protection, well-being and dignity of the individual.¹ In the process we hope to reveal the outstanding features of what is, after all, the recent history of the Movement — a history which has been anything but “a long, quiet river”.

I. PROTECTION AND ASSISTANCE

1. The ICRC on the scene of operations

From its very inception the *Review* has been concerned with war; it shows us the hidden side of war — a side which history books too often neglect to mention — with all its attendant forms of suffering. From the

¹ Two historical overviews were published in the outstanding centenary issue of the *Review* (No. 103, Oct. 1969): Jean Georges Lossier, “A glimpse into the past — Fifty years of the *Bulletin*”, pp. 539-545, and Victor Segesvary, “Fifty years of the *International Review*”, pp. 546-552.

war of 1870-1871 to the current conflict in the former Yugoslavia, official declarations, communiqués, reports and studies attest to the ICRC's activities in various theatres of operations — whether making representations to belligerent States to urge them to respect their commitments, or negotiating with the warring parties to obtain access to the victims. Sharing, as it were, the life of ICRC delegates as they repatriated the wounded and the sick, organized exchanges of prisoners, searched for missing persons and distributed aid, readers have been able to grasp how important it is for these delegates to be at the victims' side, how valuable their presence is in the field, in prisons and in camps.

Being present to conduct a protection and assistance mission means being permanently available, remaining constantly in touch with the authorities and the communities concerned so as to build up an atmosphere of trust. It also means being prepared to see the task through to the end, with the risk of being left behind after everyone else has pulled out, alone and without resources, as happened in Kurdistan in 1990, in Bihac in 1993 and in Kigali in 1994.

It is worth rereading the excellent article that Pierre Boissier wrote about the delegate, describing him as “a systematic organizer and an inspired improviser”² whose occupation is a dangerous one indeed. Delegates have been taken hostage, murdered in ambulances and killed in ambushes along with local agents. A simple perusal of recent years' issues of the *Review* reveals the heavy price the ICRC has paid for its commitment to the humanitarian cause.

While reports and commentaries on ICRC operations constitute a valuable source of information for historians, they also provide basic reference material for the ICRC itself, helping it to assess its operations and determine their strengths and weaknesses.

On a number of occasions, especially since the 1960s, the *Review* has published periodic overviews of ICRC operations in protracted conflicts, assessments covering several years of activity³ and critical analyses of

² Pierre Boissier, “ICRC delegate: A demanding and fascinating career”, *IRRC*, No. 174, September 1975, pp. 435-444, and “Standards of medical care and protection in detention camps”, *ibid.*, pp. 445-453.

³ See for example Max Petitpierre, “A contemporary look at the International Committee of the Red Cross”, *IRRC*, No. 119, February 1971, pp. 63-81; Jacques Freymond, “The International Committee of the Red Cross within the international system”, *IRRC*, No. 134, May 1972, pp. 245-266; Walter Bargatzky, “Red Cross unity in the world”, *IRRC*, No. 163, October 1974, pp. 515-526; “Under the presidency of Mr. Alexander Hay, the ICRC from 1976 to 1987. Controlled expansion”, *IRRC*, No. 261, November-December 1987, pp. 621-638; “Respect for international humanitarian law: ICRC review of five years of activity (1987-1991)”, *IRRC*, No. 286, January-February 1992, pp. 74-93.

emergency situations from the moment when the ICRC became involved to the moment it withdrew.

The internal conflict in Nigeria/Biafra is a well-known case in point. Lasting from 1967 to 1970, it gave rise to the largest humanitarian operation to be carried out by the ICRC since the Second World War. It was also one of the most thankless.

In his article "Aid to the victims of the civil war in Nigeria",⁴ Jacques Freymond, the then Vice-President of the ICRC, analyses the decision-making process and operational procedures involved in the ICRC's work in a conflict which gave rise to an unprecedented show of solidarity within the international community. On the positive side, he mentions the swiftness with which the ICRC took action, the scale of its relief operations and the tenacity shown by its staff despite constant crises and obstacles of all kinds. On the negative side, he points to the shortcomings in the law which prevented the ICRC from moving about freely in the secessionist zone and deplores the confusion that prevailed in regard to the mandates of the various international humanitarian organizations involved.

The author concludes his assessment by calling for the law applicable to internal conflicts to be developed and strengthened and for improved coordination between humanitarian organizations.

The above example was not chosen at random. It reveals the profound changes which have been taking place in the nature of conflicts and the conduct of hostilities. In Vietnam, the ICRC was involved in an internationalized civil war to which the Geneva provisions could be applied only with difficulty, while in the Middle East, the military occupation of territories following the Six Days War raised a new problem: the applicability — disputed by the Israeli government — of the Fourth Geneva Convention. During the Indo-Pakistan war the repatriation of prisoners of war in the hands of one of the belligerents was made subject to political conditions contrary to the provisions of the Third Geneva Convention.

To cope with these new types of situation the ICRC took a pragmatic line, maintaining a constant dialogue with the governments involved to remind them of their obligations. Nevertheless, a number of commentators expressed concern about the danger of politicization which threatened

⁴ *IRRC*, No. 107, February 1970, pp. 65-77.

humanitarian action,⁵ while others felt that the ICRC had to review its working procedures and become more “professional”.⁶ To adjust while remaining true to its basic mission of protection and assistance, such would be the challenge facing the ICRC in the 1970s and 1980s.

2. The ICRC’s humanitarian policy

From the 1970s on, the ICRC had to cope with three simultaneous developments: the proliferation of internal conflicts with complex ramifications, the radicalization of ideologies and the fact that recourse to violence was becoming increasingly commonplace.

“The difficulties encountered by the ICRC in its operational activities obviously evolved as the institution had to face increasingly complex situations, negotiate with new elements in the international arena, such as national liberation movements and guerrilla forces, resolve a growing number of problems not covered by law and rally the legal and material support it needed to carry out its work.

“However, more familiar factors also contributed to increasing the problems associated with humanitarian work.

“The ICRC found that it was no longer alone in carrying out operations on behalf of conflict victims. It became increasingly obvious that many other organizations were active in situations resulting from man-made disasters: United Nations humanitarian, assistance and coordination agencies and non-governmental organizations. The situation constantly raised problems relating to the coordination of the operations and respective roles of these organizations and agencies, particularly in situations rendered explosive by political complications and security risks”.⁷

To cope with these new problems the ICRC took action at two levels: in the field of law, it strove to reaffirm and develop the provisions of the 1949 Geneva Conventions (see Part II, “Conquests of the law”), while in operational terms the increasing duration of its involvement in conflict

⁵ Walter Bargatzky, *op. cit.*, pp. 521-522.

⁶ Jacques Freymond, *op. cit.*, p. 258.

⁷ “Controlled expansion”, *op. cit.*, p. 623.

situations compelled it to revise its notion of “emergency”. The ICRC went beyond the idea of limited emergency by setting up rehabilitation programmes designed to help rebuild the medical, hospital and sometimes economic structures of affected countries, drawing on local resources. This type of approach has been very successful, for example, in relation to the war in Angola.

These adjustments also resulted in a spectacular development of the ICRC’s medical activities and the work of the Central Tracing Agency. In recent years the *Review* has elaborated on this evolution, thus contributing to a greater awareness of the tasks entrusted to the ICRC’s Medical Division, set up in 1977 to conduct medical activities in behalf of prisoners of war and political detainees and to provide medical assistance for displaced populations. The *Review* has shown how these activities gradually expanded to include new aspects such as nutrition, sanitation, rehabilitation and training.

At the same time the Central Tracing Agency, decentralizing its activities and collecting information in the field, stepped up its tracing programmes for refugees and political detainees. In addition to developing its role as intermediary between National Red Cross and Red Crescent Societies, it also expanded its activities as coordinator of the National Societies’ tracing services and as technical adviser.

These changes led the ICRC to adjust its policies, both to improve its ability to foresee the course of events and to ensure that it was adequately provided in terms of qualified personnel and logistics. Greater emphasis was placed on training programmes and on human resources management.

This was the time of “controlled expansion”. Never before had the ICRC carried out so many operations in the world: some of them were successes, others failures, while many gave mixed results. In any event the ICRC was always careful to ensure that the effects of this expansion would not undermine the principles on which its action was based; in other words, it showed “unconditional adherence to the Movement’s Fundamental Principles and continuity in the institution’s work”.⁸

3. Making politics more human

With the end of the Cold War, many people looked forward to the advent of a new world order ushering in an era of international stability

⁸ *Ibid.*, p. 625.

and peace. Overtaken by the pace of events, however, the international community was caught up in a whirlwind of bewildering changes which have greatly complicated the ICRC's task.

In many cases the ICRC has been refused access to conflict victims and has been unable to bring them the necessary assistance. Forced to suspend its activities in Sudan and Ethiopia after the authorities had forbidden it to enter the combat zones, it has also been unable to carry out its treaty-based activities on behalf of prisoners of war in Iran. In the former Yugoslavia, Somalia and Rwanda, to mention only the most recent cases, the ICRC has had to cope with even more tragic situations. How can it protect and help victims — and do only that — when conflicts such as these are claiming the lives of thousands of innocent civilians, destroying the infrastructure and the environment, and shattering all frames of reference?

What position should be taken regarding the use of armed force to get relief supplies through? How can the ICRC safeguard its specific role when humanitarian agencies take action in a haphazard manner? How can ICRC operations be better coordinated with those of the United Nations agencies and non-governmental humanitarian organizations? How can material aid be truly effective unless it is accompanied by legal guarantees and political concessions?

These questions have been of constant concern to the ICRC, prompting a debate which the *Review* has fostered by seeking out the opinions of experts, theoreticians and practitioners representing different schools of thought.⁹

The law as it stands can of course supply answers to these questions, as can the efforts undertaken by governments and the United Nations to deal with serious breaches of the law and to address the pernicious effects of the massive use of conventional weapons and the threat represented by new types of weapons. These points will be discussed further in the section dealing with the development of humanitarian law.

⁹ Starting in the late 1960s the *Review* gradually reduced its coverage of ICRC operations. The reason for this was twofold: in the first place, the theatres of operations were becoming too numerous to be reported on comprehensively in time to remain of topical interest to the reader; secondly, from 1977 on the *Review*, previously a monthly, appeared every two months. Other ICRC periodicals have taken over this task, and the *Annual Report* gives a detailed account of the ICRC's activities.

This change in orientation was also reflected in an increase in series of studies devoted to a given theme and reports on topics of current interest.

Turning now to operations, the *Review* has also published special features on the issues involved in humanitarian assistance, shedding light on the ICRC's position with respect to the problems created when political, military and humanitarian aims become confused and supporting the ICRC in its staunch defence of its working principles.¹⁰

All too many agencies limit their humanitarian action to relief operations, which are more mediagenic. If they are to be effective, however, humanitarian operations must involve representations on the legal front to ensure the protection of victims. Protection and assistance thus go hand in hand, a notion which the ICRC has always upheld.

Experience has proved that in the long run relief operations are successful only when they are carried out with the consent of the States or authorities concerned; furthermore, they are dependable only when they are conducted by an impartial and independent organization such as the ICRC, under the banner of the red cross or red crescent.

Only too often humanitarian action is used as a pretext for not settling disputes, or as a way to avoid the issue altogether. On several occasions the ICRC and other organizations have pointed out that humanitarian action cannot serve as a substitute for political negotiation, and even less as a means of pursuing political or military aims. The "right of intervention on humanitarian grounds" is, in fact, a highly ambiguous notion, if only because it is often interpreted as entailing political intervention, which many States do not accept. In short, any attempt to link humanitarian and political action in a single negotiation process "may lead to the politicization of humanitarian action, which will then become hostage to the political and military manoeuvring associated with any conflict".¹¹

Similarly, neither should military and humanitarian action be linked in any way. In the first place, "the use of armed force to get relief supplies through cannot be justified by international humanitarian law since (...) the obligation to 'ensure respect for' this law rules out the use of force";¹² indeed, the use of force may raise doubts as to the impartial nature of such

¹⁰ See in particular the special section on humanitarian assistance in No. 288, May-June 1992, pp. 215-263, and No. 289, July-August 1992, pp. 363-382.

¹¹ Address by Mr. Cornelio Sommaruga, President of the ICRC, to the International Conference for the Protection of War Victims, *IIRC*, No. 296, September-October 1993, pp. 365-368 (p. 391).

¹² Yves Sandoz, "*Droit* or '*devoir d'ingérence*' and the right to assistance: the issues involved", *IIRC*, No. 288, May-June 1992, pp. 215-227 (p. 220).

an operation. Secondly, "the ICRC cannot (...) be associated with armed action for humanitarian purposes, but must analyse the new situation created by such action in order to envisage, together with all the parties involved, the role it is required to play to ensure respect for international humanitarian law and to cooperate actively in the implementation thereof".¹³

These problems highlight the need to coordinate the humanitarian activities of the United Nations agencies and other humanitarian organizations. As the ICRC has repeatedly stated, such coordination is vital. When action is taken on behalf of refugees and displaced civilians who are victims of armed conflict, for example, the ICRC has stressed the need to agree on how tasks should be distributed among the office of the United Nations High Commissioner for Refugees, other organizations involved and itself, in accordance with the statutory competences and respective mandates specific to these organizations and their capacity to operate in situations of armed conflict or political instability.¹⁴

To cope with the many aspects of conflict situations, the ICRC has gradually developed a global operational strategy combining the inseparable activities of protection and assistance in emergency situations and rehabilitation activities designed to promote the development of the countries concerned.

This strategy was ably summed up by Frédéric Maurice: "... law, diplomacy and field work constitute an interdependent whole. For no assistance can be extended to the civilian population for long without the independence and neutrality which guarantee the impartiality of the aid being offered to the populations of the belligerents. The right to medical or material assistance counts for nothing if there are no rules on the conduct of hostilities to outlaw famine and the destruction of civilian property as methods of warfare. Work in prisoner-of-war camps has generally had a decisive effect on the conduct of the armed forces, particularly towards civilians. The search for missing persons, family reunification and the exchanging of messages between people separated or isolated by war also have their effects long after the cessation of active hostilities, when the time has come to solve the myriad problems of restoring peace.

¹³ *Ibid.*, p. 223 (italics added).

¹⁴ Frédéric Maurice and Jean de Courten, "ICRC activities for refugees and displaced persons", *IRRC*, No. 280, January-February 1991, pp. 9-21 (p. 18).

“The ICRC has formed the conviction that those approaches must be combined in a consistent whole if humanitarian action in wartime is to be not only effective but above all feasible and credible in the eyes of the belligerents”.¹⁵

The ICRC’s operational strategy represents an attempt to respond to the needs of suffering humanity. However, it cannot provide a solution on its own to the conflict between political and humanitarian concerns. States and the international community at large have a duty to follow up on the basic issues which the ICRC raised as far back as the early 1980s, and which remain as pressing now as they were then: “How should one go about stimulating this awareness of humanitarian values among political leaders? How should one foster the humanitarian spirit in politics? How can one demonstrate that in every political situation there are aspects which one ignores at one’s peril?”¹⁶

The “humanitarian mobilization” which Alexander Hay called for so eloquently in 1981¹⁷ is more vital than ever before. The ICRC intends to continue to play its part by pursuing its mission of protection and assistance “with perseverance, thoroughness and humility”, as President Sommaruga often says.

To a great extent, the burden of this mission will continue to be placed on the shoulders of ICRC delegates. And even if the barbarity and ignorance we are witnessing today have rendered their task more dangerous, there is no doubt that the ICRC’s mandate will continue to inspire vocations. For there will always be men and women driven by the “humanitarian ambition”, to quote Frédéric Maurice, an “operator” (as he was fond of calling himself) who lost his life at all too early an age.

*(To be continued)**

¹⁵ Frédéric Maurice, “Humanitarian ambition”, *IRRC*, No. 289, July-August 1992, pp. 363-372 (p. 372).

¹⁶ Alexandre Hay, “The ICRC and international humanitarian issues”, *IRRC*, No. 238, January-February 1984, pp. 3-10 (p. 9).

¹⁷ The basic message contained in Mr. Hay’s appeal is worth repeating: “To cope with the increasing number, variety and duration of conflicts, with the inhumane treatment arising from the hardening of ideological, or even religious and racial attitudes, and with the declining respect for treaties and law in general, only a concerted action by all the forces of humanitarianism, a mobilization of States and peoples, might raise in any decisive manner the level of respect for humanitarian rules in conflict — short of abolishing war altogether.” “ICRC appeal for a humanitarian mobilization”, *IRRC*, No. 244, January-February 1985, pp. 30-34 (p. 33).

* Sections to follow:

II - Conquests of the law

III - The Movement: solidarity and unity



GUSTAVE MOYNIER

(GENEVE)

Membre Fondateur de l'Institut de Droit International

Le Maître

Quantin Imp

26

The role of Gustave Moynier in the founding of the Institute of International Law (1873)

THE WAR IN THE BALKANS (1857-1878)
THE MANUAL OF THE LAWS OF WAR (1880)

by André Durand

The Franco-Prussian War of 1870 had shown just how difficult it was to ensure respect for international law during actual fighting. Mutual accusations of violations of the Geneva Convention, or more generally of the customary laws of war, showed that neither the scope of humanitarian law nor the dissemination of its principles had been sufficient to avert excesses by the combatants. The protection of medical services and of the wounded should remain independent of the conduct of hostilities. But violations of the law of war, whether real or imagined, inevitably undermine the implementation of the Convention. Public opinion (quickly aroused), the press (always keen on shoring up the spirit of resistance), and governments themselves never miss an opportunity to highlight or exaggerate criminal acts committed by the adversary and to make a blanket condemnation of all enemy combatants.

Gustave Moynier was aware of the possible implications of such excesses for the activities of the Red Cross. As soon as the war was over he wrote down his observations and conclusions in a study entitled *The Geneva Convention during the Franco-Prussian War*, and put forward a proposal both for the creation of an international legal institution to investigate breaches of the Convention and for an international law making it possible to punish such violations. At the same time, he thought of extending the legal system to encompass the laws of war, with a view to introducing into the conduct of hostilities rules that he believed would protect the wounded.

"During the Franco-Prussian War, he wrote, I had often been painfully struck by the uncertainty surrounding legal regulations governing the conduct of hostilities. The belligerents were in constant disagreement as to how far they could go in their struggle against the enemy and what they should refrain from doing, no one among them being able to make an authoritative statement on the matter. This state of affairs seemed to me to have done much to intensify already inflamed passions and to give the fighting a savagery unworthy of civilized nations. Once peace had been restored, it was time to seek ways of preventing a repetition of such cruelty and the means that suggested itself to my mind was to bring together those most expert in international law so that they could proclaim, with a single voice if possible, the rules of moderation which the legal conscience of the time found indispensable.

But I was not one to spearhead such an undertaking with much prospect of success, being fully aware of the insurmountable difficulties it presented. To my knowledge, only one man had the qualities required. He was a young lawyer from Ghent, Mr. Rolin-Jaequemyns, with whom I had been in contact since the International Charity Conference in London in 1862. Mr. Rolin had founded and was ably directing an 'International Law Journal', which placed him at the centre of the scholarly circles that I wished to reach".¹

In 1869 Rolin-Jaequemyns² had founded the *Revue de droit international et de législation comparée* (Journal of International and Comparative Law) in conjunction with Tobias Asser, future Nobel Peace Prize winner (1911) and with John Westlake. It was the principal publication

¹ G. Moynier, *Réminiscences — Belgique, Pays-Bas, Luxembourg*, pp. 23-24. Typed manuscript, ICRC Archives, Moynier collection. Bernard BOUVIER quoted part of this text in his pamphlet devoted to Gustave Moynier (*Gustave Moynier*, printery of the *Journal de Genève*, 1918, p. 26), based on a lecture given at the assembly hall of the University of Geneva on 12 March 1917. An excerpt from the lecture (pp. 22-34) appeared in the *Tribune de Genève* of 10-13 February 1918, entitled *De la création par Gustave Moynier de l'Institut de Droit International*.

² Gustave Rolin-Jaequemyns, born in Ghent (1835-1902), a doctor of laws and political and administrative sciences. One of the founders and editor-in-chief (1869-1878) of the *Revue de droit international et de législation comparée* (Journal of International and Comparative Law). Principal founder of the Institute of International Law, first General Secretary, then president in 1879. Member of the Academy of Belgium. Member of the House of Representatives of Belgium, Minister of the Interior (1878). His brother Albéric Rolin, a lawyer at the Court of Appeal at Ghent, was assistant secretary of the IIL when it was founded, then secretary and auxiliary member (1874).

of the Institute of International Law until war stopped its publication in 1939. In that same year 1869, Gustave Moynier, concerned to provide the National Relief Societies with an information and communication channel, established the *Bulletin International des Sociétés de Secours aux Militaires blessés*, which later became the *International Review of the Red Cross*. It has remained in print until the present day and retains its founder's rigour and concern to provide a broad range of information. The two jurists accordingly found themselves at the head of international journals devoted to the dissemination and to the advancement of international law and humanitarian law.

Naturally therefore, it was to Rolin-Jaequemyns that Moynier turned first to discuss his ideas. In September 1871, he entrusted one of his friends, Alphonse Rivier, a law professor in Brussels³ with presenting his project to him. But this had no effect. Supposing that his request had not been forwarded, Moynier decided to approach Rolin-Jaequemyns directly. In November 1872 he visited him in Ghent in order, he said, to win him over to his idea and persuade him to be its champion.⁴

Nevertheless, great plans engendered by similar circumstances are sometimes conceived simultaneously by several individuals. So it was in the case of Moynier's project, which coincided with proposals from different jurists of international renown, in particular, Francis Lieber⁵,

³ Alphonse Rivier, from Lausanne, Doctor of Law from the University of Berlin (1858) lecturer at that university (1862), professor at the Universities of Bern (1863-67) and Brussels (1867), Secretary and auxiliary member of the IIL (1874), author of many legal studies, member of the Swiss Federal Commission for the drafting of a federal code of obligations.

⁴ For the history of the founding of the Institute, see Alphonse Rivier, *L'Institut de droit international*, Bibliothèque universelle, Lausanne-Geneva, vol. 51, 1874; *Yearbook of the Institute of International Law*, 1877 et. seq.; Romain Yakemtchouk "Les origines de l'Institut de droit international" in *Revue générale de Droit international public*, 77th year, April-June 1973, No. 2; Albéric Rolin, "Discours", in *IIL Annuaire*, 21st session Ghent, 1906, obituary on Gustave Moynier in *IIL Annuaire*, 1911, and *Les origines de l'Institut de droit international, 1873-1923 — Souvenirs d'un témoin*, Brussels, undated, [1923]; August Schou, "L'Institut de droit international", in *Histoire de l'internationalisme*, t. 3 Oslo, Norwegian Nobel Institute, 1963; and the *Livre du centenaire*, of the IIL, Basel, 1973.

⁵ Francis Lieber (1798-1872). Professor of International Law at Columbia College (University of New York). Author of *Instructions for the Government of Armies of the United States in the Field*, published by the War Department, 24 April 1863. Collaborator of the *Journal of International and Comparative Law*. He died on 22 October 1872, 11 months before the founding of the IIL of which he was one of the initiators.

Gaspard Bluntschli⁶ and David Dudley Field⁷. These ideas had been brought to the attention of the legal world as a result of the American Civil War and the new possibilities for the peaceful settlement of disputes through mediation. Lieber had outlined his initial ideas in April 1866 in a letter to Bluntschli, then in September 1881 in a letter to Rolin-Jaequemyns, reminding him of one of his favourite ideas, the holding of a public, international congress, with no official status, involving the foremost international jurists, for which, he said, *Ghent would be an excellent place*.⁸ He had withdrawn this suggestion on 10 April 1872 in a letter to General Dufour, in response to a circular by Moynier concerning the creation of an international legal institution. The author of *Instructions for the Government of Armies of the United States in Field*, who did not approve of Moynier's idea of a permanent international tribunal, stressed in his conclusion the utility and effectiveness of a meeting of the most eminent international jurisconsults — in their personal capacities and not under a public mandate — to settle some important but still unclarified points.⁹ Bluntschli had made similar proposals and in many of his works had also proved to be a pioneer of the codification of international law. The decision of an Alabama court, handed down in Geneva on 14 September 1872 and settling by arbitration a 10-year dispute between the United States and Great Britain, showed that the recourse to legal norms accepted by common agreement was a necessary precondition for the settlement of disputes. Gustave Moynier had already stressed this point in his draft for an international judiciary body: "The constitution of an

⁶ Jean-Gaspard Bluntschli (1808-1881), from Zurich. He had a legal and political career, first at Zurich (professor of Roman Law, State Councillor, drafter of the Zurich Civil Code), then at Munich and Heidelberg (professor of international law and political sciences, member of the parliament of Baden), member of the drafting commission of the Federal Code of Obligations. See Dietrich Schindler, "Jean Gaspard Bluntschli", in *Livre du Centenaire*, op. cit., 1973, pp. 45-60.

⁷ David Dudley Field (1805-1894) initiator of the *Association pour la réforme et la codification du droit des gens*, founded in Brussels in 1873, which was later to become the *International Law Association*.

⁸ Lieber to Rolin-Jaequemyns, Sept. 1871. Letter quoted in English by Rolin-Jaequemyns, with the translation as a note, in his important article in the *Revue de droit international et de législation comparée*, 5th year, 1873: *De la nécessité d'organiser une institution scientifique permanente pour favoriser l'étude et les progrès du droit international*, pp. 480-481.

⁹ Lieber to General Dufour, 10 April 1872. Based on the French translation published by Rolin-Jaequemyns in "Note sur le projet de M. Moynier, relatif à l'établissement d'une institution judiciaire", protectrice de la Convention, *Revue de droit international et de législation comparée*, 1872, 4th year, 2nd edition, p. 325. The circular containing Moynier's note (No. 28, of 28 January 1882) was signed by General Dufour, honorary President, "in the absence of the President".

arbitration court which is charged with the task of finding a settlement for the *Alabama* affair, and which has its headquarters in our city, is a far-reaching precedent. And it is known that the arbitrators concerning the *Alabama*, like those whom I propose for the Geneva Convention, will have to model themselves according to the principles adopted previously by the interested powers, and laid down in a treaty".¹⁰

Commenting on the letter from Lieber to General Dufour, Rolin-Jaequemyns wrote: "*It would seem to us that, in this connection, a kind of international parliament of persons elected from the domain of law, as proposed by Mr. Lieber, would be responsible for rendering the greatest services. It would be a conference of diplomats of a new kind, without the drawbacks of diplomacy, and the participants would be prompted by their very own reciprocal influence to reconcile the desirable with the possible.*

We hasten to take note of Mr. Lieber's wish and we promise ourselves to work towards its realization with the help of this group which has had the good and unexpected fortune of having within it such a large number of such examples."¹¹

Here Rolin-Jaequemyns added a note:

"What seems to prove that Mr. Lieber's wish is filling a real need is that around the time when our eminent New York correspondent discussed it with us for the first time (summer of 1871), Mr. Moynier had asked a mutual friend to discuss a similar project with us. Shortly afterwards Mr. de Holtzendorff wrote to us along the same lines.

During their meeting in November of 1872 at Ghent (probably the 15th or 16th), Rolin-Jaequemyns spoke favourably of Moynier's project. On Sunday 17 November Moynier wrote to Bluntschli proposing a meeting between them at Heidelberg on the Wednesday of that same week.¹² In a letter also dated 17 November, Rolin-Jaequemyns informed Bluntschli of the forthcoming visit by his colleague: "*Mr. Moynier will no doubt discuss with you an idea which was very dear to our late and distinguished*

¹⁰ G. Moynier, *Note sur la création d'une Institution judiciaire internationale propre à prévenir et à réprimer les infractions à la Convention de Genève*, ICRC, 28th circular, 28 January 1872. Moynier is referring here to the Treaty of Washington of 8 May 1871, reached between the United States and Great Britain.

¹¹ Rolin-Jaequemyns, *Note sur le projet de M. Moynier...*, pp. 345-346.

¹² Gustave Moynier to Bluntschli, 17 November 1872, Zurich Central Library. Facsimile, Geneva University Library.

friend Mr. Lieber; that of a congress or perhaps a conference of international jurists for the purpose of conferring collective academic authority upon and accordingly recommending to the general public and to governments certain proposals of international law that specifically meet present needs. As a result of discussions I have had with Mr. Moynier, I intend to formulate a draft appeal in that regard which will be submitted for your opinion before being publicized.¹³ Bluntschli replied to Rolin-Jaequemyns on 22 November, assuring him of his full agreement: "What seems crucial to me is to set up a standing institution which could and should gradually and imperceptibly become a world authority".¹⁴ Thus, through these two initiatives guided by his unwavering concern to translate a theoretical concept into reality, Moynier seems to have started, or speeded up, the process leading to the creation of the Institute of International Law and, if Rolin-Jaequemyns was still hesitating, to have convinced him to assume responsibility for its execution. His memoirs contain a brief account of these meetings:

"I managed to convince my friend without much difficulty, the more so since my overtures did not catch him entirely off his guard since, before me, other persons had given him suggestions that were more or less similar to mine. After brief hesitation he agreed to assume responsibility for setting out guidelines to the practitioners of the legal profession and which I left entirely up to his wisdom and enthusiasm. We agreed moreover that the projected meeting would have to be given greater scope than provided for in my initial programme, extending its purview to cover international law as a whole and creating a permanent institution rather than a temporary body. I therefore set out for Heidelberg to outline our common views to Professor Bluntschli, whose support we had good reason to anticipate and who approved of them unreservedly".¹⁵

Having agreed to take on the leadership of the movement, Rolin-Jaequemyns sent a *confidential note* dated 10 March 1873 to some of his colleagues, discussing the objectives and statutes of the new body, *academy or international institute of public law*. In his reply of 7 April 1873, Moynier included a commentary on Rolin-Jaequemyns' proposals, the

¹³ Rolin-Jaequemyns to Bluntschli, 17 November 1872. Yakemtchouk, *op. cit.*, p. 403.

¹⁴ Bluntschli to Rolin-Jaequemyns, 22 November 1872. Quoted by Albéric Rolin, *Les origines de l'IDI* (cf. Note 4), p. 11 (in translation), and by Yakemtchouk, p. 404 (in the German).

¹⁵ G. Moynier, *Ma contribution aux progrès du droit international*, pp. 9-10, typed manuscript, ICRC archives, Moynier collection.

basic points of which he approved. Moynier's own ideas on certain issues showed through, deriving as they did from his experience in running the Red Cross. Rather than a standing commission with members in different places and hence difficult to bring together, he preferred the appointment of a director who would be obliged to seek the opinion of subordinate advisers in important matters. He also emphasized the undesirability of governments having a say in the composition of the new body and a right to inspect its finances.

*"The right of veto is a regrettable restriction on the independence of the Academy, and I must confess that your arguments in its defense have not convinced me. Allowing a government to oppose the appointment of a distinguished intellectual on account of his political opinions would amount to an excessive abdication of dignity by the members of the legal profession and to the implicit admission that politics takes precedence over law. Moreover, the States will find the firmest guarantee in the fact that it behoves the Academy not to compromise its credibility vis-à-vis governments by making unpopular choices. We can be confident that it will exercise tact in deliberations. Nor am I much in favour of receiving regular contributions from governments to cover expenses".*¹⁶

In his concern to inform the general public, Gustave Moynier published an initial study on the projects under way in the *Journal de Genève* of 5 August 1873:

"If there is one universal sentiment that has been engendered by the most recent wars, it is surely that of the inadequacy of a society in which there is no positive law governing international conflicts, with the result that reciprocal grievances of nations or their governments can force them, without formally committing any illegal act, to behave in the most arbitrary or regrettable manner and even in a manner most repugnant to the public conscience. Where are the rules agreed to by one and all that make it possible, for example, to determine the unjust character of an aggression and to require the parties to have recourse to arbitration before resorting to force, to oblige the stronger to make concessions, determine the rights and duties of neutral parties, or to condemn this or that condition for peace as abusive? On all these and on many other points, the law is still unclear. [...]"

¹⁶ G. Moynier to Rolin-Jaequemyns, 7 April 1873. ACICR, Moynier collection, copies of letters dispatched, p. 12.

The creation of a special, standing body to focus all endeavours in this direction would seem imperative. Between the official initiative of governments, which it would be premature to include as a constant factor, and individual opinions which very often carry little weight, collective academic action, removed, as far as is humanly possible, from any local influence, would emerge as a new and potent intermediary force capable of producing the best results if wisely directed. [...]

*Though not old, this idea is not entirely new either and it would be difficult to identify its originator. Yet, in recent times it seems to have occurred to several men of different nationalities. Some of them even thought that the time was right for translating this theoretical concept into fact. They will be trying to do this at the Ghent congress. [...]*¹⁷

The founding members met at Ghent on 8 September 1873 in the Arsenal Room of the Town Hall. On 10 September, statutes were adopted for the *Institute of International Law*, its primary objective being to work for the advancement of international law by endeavouring to become the voice of the legal conscience of the civilized world. "*This date*", Gustave Moynier was to write subsequently, "*deserves to be remembered as marking the formation of a group that has grown steadily in public esteem, which has already rendered signal services to the fields of both law and administration and which has a bright future ahead. We were a mere 11 founders present at Ghent, but we felt encouraged by an august body of persons not present, but whose declared support lent weight to our decisions*".¹⁸

The founding meeting assigned the Belgian economist Emile de Laveleye and Moynier to draft, as a preamble to the statutes, a manifesto proclaiming the establishment of the Institute. That text, dated 11 Sep-

¹⁷ *Journal de Genève*, 5 August 1873, "Le congrès de Gand et l'Institut du droit des gens", unsigned article. See also *Journal de Genève*, 16 September 1873, "L'Institut de droit international", and the *Bulletin international des sociétés de secours (International Bulletin of Relief Societies)*, January 1874, pp. 99-103, "Fondation de l'Institut de droit international".

¹⁸ G. Moynier, *Ma contribution...*, *op. cit.*, p. 10. Present at the Ghent meeting were: Asser (Amsterdam), W. Besobrasoff (St. Petersburg), Bluntschli (Heidelberg), Carlos Calvo (Buenos Aires), D. Dudley Field (New York), E. de Laveleye (Liège), J. Lorimer (Edinburgh), Mancini (Rome), Moynier (Geneva), Pierantoni (Naples), Rolin-Jaequemyns (Ghent). Twenty-two of the jurists invited had presented their excuses, but approved the project, with or without reservations. It was to their encouragement that Gustave Moynier was referring when he used the word *exhorte*, an archaic French term for *exhortation*, *counsel* (F. Godefroy, *Dictionnaire de l'ancienne langue française...*, Paris, 1884).

tember 1873, was signed by the 11 founding members and widely disseminated to governments and to specialists of international law.¹⁹

In his memoirs on the trip he made on this occasion to Belgium, Moynier recalls the excellent reception given him by Rolin-Jaequemyns's father and by the burgomaster, the Count of Kerchove, and his meeting with the Baroness of Crombrughe, the Burgomaster's sister, who had devoted herself to serving the wounded during the Franco-Prussian War.²⁰ He was invited by Rolin-Jaequemyns to visit his Minderhout estate in Campine. "*A few days spent in this solitude, wrote Moynier, surrounded by the charming family of my host, left me an impression that was as pleasant as it was unforgettable. Staying there at the same time was the distinguished agronomist, Mr. Jaequemyns, Mrs. Rolin's father, who was one of the most fervent supporters of the restoration of la Campine. He was good enough to give me excellent lessons on rural economics right there in a natural setting*".²¹

In his reply to Rolin-Jaequemyns concerning the draft statutes for the Institute, Moynier, while supporting Ghent as the venue for the constituent meeting, nevertheless pleaded the cause of his native city, *which had already brought success*, he wrote, *to two important initiatives: the 1864 Geneva Convention and the Alabama arbitration. "Nevertheless, I believe that Geneva should be chosen for a subsequent session, seeing that the first assembly will require exceptional preparatory work for which it is highly desirable to take advantage of the facilities of the Revue de droit international which you so kindly place at our disposal"*.²²

Moynier's proposal having been accepted, Geneva was chosen to host the Institute's first session following the constituent meeting at Ghent. The meeting took place in the historic Alabama Room, made available to the congress by the Geneva State Council. The session, chaired by Mancini,²³

¹⁹ The IIL, which has to date carried out and developed the programme given to it by its founders, received the Nobel Peace Prize in 1904 for its activities.

²⁰ See the Bulletin international of Relief Societies, October 1871, No. 9, pp. 16-20 for a synopsis of the book written by M^{me} de Crombrughe, *Journal d'une infirmière pendant la guerre de 1870-1871*, Brussels, 1871.

²¹ G. Moynier, *Réminiscences*, p. 30, Manuscript, ACICR, Moynier collection.

²² G. Moynier to Rolin-Jaequemyns, 17 April 1873. ACICR, Moynier collection record of copies of letters dispatched, p. 13.

²³ Pascal Stanislas Mancini, born in Castelbaronia in 1817, Italian jurist and statesman, Member of Parliament, Minister of Justice (March 1876), Professor of international law and Chairman of the Faculty of Law at the University of Rome.

opened on 31 August 1874. Antoine Carteret, President of the State Council, and Michel Chauvet, State Councillor, brought greetings from the authorities to the delegates.

The Institute of International Law was not alone in championing the establishment of legal rules to govern the conduct of war. In February 1874, the *International Executive Committee for the Amelioration of the Situation of Prisoners of War*, created at the initiative of Henry Dunant who was its international secretary, convened a preparatory meeting and proposed the convening of a diplomatic conference in Paris, on 4 May 1874, to legislate on the treatment of prisoners. But this latter project was overtaken by events when, in April of that same year, Czar Alexander II proposed that a Conference should be held in Brussels to establish rules that “*would serve to reduce to the extent possible the calamity of international conflict by specifying the rights and duties of armies in wartime.*” The Conference opened in Brussels on 27 July 1874.²⁴

Gustave Moynier was naturally greatly interested in a project that matched his own concerns so exactly. He was, however, disquieted to see that the conference agenda included a draft revision of the Geneva Convention, the wording of which did not in his view represent a step forward with respect to the treaty in force. Indeed he felt it risked compromising the Convention’s implementation. Hence his reaction, recorded in his memoirs as follows:

“The moment I got hold of the Russian draft that was to be discussed, I was struck by its shortcomings, which I pointed out to the (Swiss) Federal Council. I also sent the Council an alternative draft, which was submitted to the Swiss plenipotentiary, Colonel Hammer, for his use as necessary.

*I was also alarmed at the fact that the Geneva Convention, incorporated into the Russian draft, risked ceasing to exist as a separate entity as it might be made part of a whole which was not sure to be adopted”.*²⁵

²⁴ See in this regard Danièle Bujard, “The Geneva Convention of 1864 and the Brussels Conference of 1874”, in *IRRC* No. 670, October 1974, 527-537 and November 1974, pp. 639-649, as well as Yvonne de Pourtalès and Roger Durand, “Henry Dunant, promoter of the Brussels Conference of 1874, pioneer of diplomatic protection of prisoners of war”, *IRRC* No. 674, February 1975, pp. 61-85.

²⁵ G. Moynier, *Réminiscences*, pp. 32-33, ACICR, Moynier collection. Gustave Moynier did not attend the Brussels Conference of 1874.

The International Committee therefore sent a circular to National Red Cross Societies, asking them to take initiatives vis-à-vis their governments in an attempt to bring about a postponement of the examination of the Geneva Convention or, failing this, to get the Brussels Conference to resume discussion of the substance of the additional articles of 1868.²⁶ Baron Jomini, the Conference Chairman, read it out at one of the sessions. The Conference then declined to include in its agenda the revision of the Geneva Convention, limiting itself instead to referring to the text of the Convention, *barring any possible amendment thereto*.

The Institute of International Law had placed on its agenda a detailed study of the Brussels Declaration on the laws of war and had assigned a commission (the Fourth Commission) the task of formulating an opinion as well as supplementary proposals on the matter. Moynier, as a member of this commission, submitted the report. Meeting at the Hague from 25 to 31 August 1875, the Institute proposed some improvements in those areas that it perceived as incomplete or vague, while recognizing the value of the Declaration's substance.²⁷

The revision of the laws of war and the conclusion of new international treaties were not therefore of merely theoretical interest. Even as the Institute held its meeting, the Turkish-dominated Balkans was the theatre of major fighting. The insurrection of Herzegovina and of Bosnia in July 1875, the uprising in Bulgaria, the war pitting Serbia and Montenegro against Turkey in July 1876, all these upset Europe's balance in its most fragile region, while the violence of the battles and the severity of the repression showed that despite the provisions of the Geneva Convention and the proposals of the Brussels Conference, warfare remained the domain of the arbitrary and the cruel. On 24 April 1877, following fruitless negotiations, Czar Alexander II, in alliance with the Rumanians, Serbs and Montenegrins, declared war on Turkey.

Moynier reacted immediately. On 7 May he communicated his disquiet to Bluntschli, proposing a public declaration by the Institute of International Law:

"I am deeply concerned about what will happen in the East with respect to the observance (or rather the lack of observance) of the laws

²⁶ ICRC, 30th circular, 20 June 1874.

²⁷ See *Annuaire de l'Institut...*, 1st year, 2nd part, pp. 133-138.

*of war. I am doing the utmost in my limited sphere to secure respect for the Geneva Convention, without being overly optimistic about the outcome of my initiatives. But what will become of the other points of the declaration of Brussels (where Turkey was represented)? Could the Institute not launch a public initiative in this regard, if only to state publicly that the conduct of the belligerents is being watched? Would it not be timely to convene an ad hoc session of the special commission for the implementation of the Brussels Declaration? I draw your attention to this point, which seems important to me as a way for the Institute to make itself useful while affirming its existence, without exceeding the bounds of its purview (Art. 1.5 of the Statutes). Should you approve of my proposal, it would be necessary to act immediately so that our action would be preventive rather than appear to be a reprimand addressed to the belligerents after the fact. I am personally ready to depart for Heidelberg should you convene the commission there.*²⁸

Bluntschli immediately agreed and proposed that Rolin-Jaequemyns should join them in drawing up the statement. Moynier set out for Heidelberg, where he arrived on 19 May. He was accompanied by his father and took the opportunity to visit his son Adolphe, who was learning German with the Reverend Anthes in Bensheim near Heidelberg. He had already sent to Bluntschli a draft statement with the following comment: *"Were it not a matter of a statement to be issued by the Institute, I would have tried to be somewhat more passionate in my style, but it seemed to me that coming from us, anything that smacks of emotionalism would be out of place, and that our utterances should be made with dignity and measure"*.²⁹

As he had written to Bluntschli, Moynier wished to lose no time in acting. Therefore, he suggested that the document should be published immediately, without consulting the other members of the Institute. The following text is taken from a note published in the Institute's yearbook as a preamble to the Statement:

"Although the Institute was not in session at the start of the war in 1877 between Russia and Turkey, at the initiative of one of its members,

²⁸ Gustave Moynier to Bluntschli, 7 May 1877, Zurich Central Library. Facsimile, Geneva University Library. Articles 1.5 of the Statutes of the Institute states one of its objectives as follows: *To work, within the limits of its competence, either for the maintenance of peace or for the observance of the laws of war.*

²⁹ *Ibid.*, 16 May 1877.

Mr. Moynier, its secretariat undertook to publish the following document drafted at Heidelberg by Messrs Bluntschli, Moynier and Rolin-Jaequemyns and subsequently approved by Messrs Parieu and Asser".³⁰

The statement was published on 28 May 1877 under the title: *The laws of war — an appeal to the belligerents and to the press*. It started with a description of the current state of the laws of war, both codified and customary: the *Paris Declaration of 1856* concerning privateering and blockades; the *Geneva Convention of 1864* concerning the protection of wounded soldiers and the *Additional Articles of 1868*, not ratified, but adopted as a *modus vivendi* by both sides in the Franco-Prussian war of 1870; the *St Petersburg Declaration of 1868* forbidding the use of explosive projectiles; finally and above all the *Brussels Declaration of 1874*, which was not ratified but should be considered, according to the statement, "*as the reasonable expression of obligations that the legal conscience of European peoples today imposes on belligerent armies and in respect of populations under occupation.*" The statement then set out the substance of the rules that should be observed in wartime with regard to parliamentarians, soldiers who are *hors de combat* and the civilian population and asked that armies be instructed in these rules. It concluded:

"We know how difficult it is to bear constantly in mind, amidst the perils of warfare, the strict prescriptions of humanity. The soldier, excited by the intensity of battle, the intoxication of victory, by a battle that could turn either way, by his instinct for self-preservation, is only naturally led to violate the rules of moderation unthinkingly and without scruples, even though he had fully approved of them when in a sober frame of mind. But the supreme goal of law—to maintain humane relations among human beings—should apply no less to the conduct of war itself. It is difficult to overemphasize this truth to those who govern nations or command armies.

It is with this in mind that we invite the newspapers of the belligerent states and of neutral countries to publicize this appeal. In so doing they will help us wipe out the last vestiges of the barbarous and tragically ill-conceived notion that 'all is fair in war'. And they would also help to promote knowledge and practice of the true principles of international law".³¹

³⁰ *Annuaire...*, 2nd year, 1878, pp. 132-137. In response to the manifesto by the IIL, the Ottoman Red Crescent Society published a memorandum rejecting the allegations it contained regarding the conduct of the Turkish armed forces and declaring that from the start of hostilities the Ottoman Empire had been careful to ensure that its forces respected the laws of war. (See the *Bulletin international*, 9th year, January 1878, pp. 109-112.)

³¹ *Ibid.*, p. 136.

Meeting in Zurich from 10-13 September 1877, the assembly of the Institute of International Law unanimously ratified the drafting and publication of the circular and decided to supplement it with a new declaration urging implementation of the laws of war in the Russo-Turkish War. It assigned Moynier and Rolin-Jaequemyns to draft the declaration. Their draft was adopted by the assembly and published on 17 September.

Through this new circular and while the Institute sought not only to reiterate the manifesto of 28 May but also to ascertain the extent to which belligerents had instructed their combatants in the conventions in force and other provisions of public international law. It called upon the warring parties to strengthen measures to ensure respect for that law:

“The belligerents accuse each other of ignorance of the law. Each day brings detailed reports of new horrors. Unfortunately, while it must be acknowledged that most of these acts — and shameful they are in our day and age as well as a cause for concern about the future — are all too real, the means are often lacking to verify each particular case.

The Institute therefore cannot be expected to launch an impossible investigation of the daily growing number of impassioned allegations. But there is another issue that an assembly of jurists, established to ‘work for the advancement of international law’, has the duty to raise and the means to resolve: that of ascertaining the extent to which the belligerents have taken steps as far as possible to familiarize their respective armies with the laws of war”.

The Institute of International Law did not accept as valid the explanation that irregular troops were responsible for the acts of cruelty observed: *“If these troops are utterly incapable of behaving like reasoning human beings, then the mere fact of engaging them constitutes a grave breach of the laws of war, as has long been the unanimous opinion of those who make international law. If this absolute incapability does not exist, then it is for the belligerents making use of those groups to bring them into line”.*

The statement concluded by asking that *“the laws and customs of war, which should be formulated in treaties, ought, for that very reason, to be considered entrusted to European States for safekeeping and that in order to inform the general public, these States should wherever possible develop the institution of military attachés responsible for monitoring the armies of the belligerents and reporting back to their government on all confirmed grave breaches of the laws of war”.* It further called on the various governments to take the necessary steps to acquaint individual officers and soldiers with the laws and customs of war and proposed that

before embarking on campaigns, each officer should sign a statement that instructions in this regard had been read out to him and that he has received a copy of same.³²

Even while participating in the work of the IIL Gustave Moynier ensured that the voice of the ICRC was heard. Indeed, he was among the leaders of the two bodies dealing respectively with the laws of war (Institute of International Law) and humanitarian law proper (ICRC). He could therefore act simultaneously in both domains, adding to the Institute's endeavours to halt violations of the laws of war in the Balkans the full authority of the International Committee in matters concerning the Red Cross.³³

But the ICRC's possibilities for action were curtailed not only by the violence of ethnic, political and religious hatred but also by the fact that the provinces in rebellion, regarded by the Ottoman government as vassal or tributary provinces without political independence under international law, had not yet acceded in their own names to the Geneva Convention and hence had no autonomous Red Cross Societies. On 29 November 1875, Montenegro, which at the time had not yet entered the war, notified the Swiss Federal Council of its accession to the Convention and asked the ICRC to send a delegation. The latter responded positively and dispatched three delegates — Prof. Aloïs Humbert, Dr. Frédéric Ferrière (a future member of the Committee who had been a volunteer doctor in a Baden field hospital during the war of 1870, and the pharmacist Charles Goetz — who set out on 28 December). Their mission was to organize relief for the wounded and the sick who had taken refuge in the principality, to promote the formation of a national Red Cross and to conduct an information and publicity campaign to further that aim. Instructions given to them specified: "*They shall use their full influence to ensure respect for the humanitarian principles of the Geneva Convention in the present war in Herzegovina*". The Montenegrin Relief Society was created on 15 January 1876.

Having set up a Red Cross Society on 21 January 1876, the principality of Serbia became party to the Convention on 24 March. But Turkey itself, party to the Convention since 1865 and possessing a National Relief

³² *Ibid.*, pp. 158-159.

³³ Regarding the action taken by the ICRC during the war in the Balkans, see Pierre Boissier, *History of the International Committee of the Red Cross*, pp. 298-312.

Society, did not recognize either the validity of these accessions or the formation of the societies. In its circular of 8 July 1876, the ICRC nonetheless called on National Committees to lend their support to the National Societies of Montenegro and Serbia.

The President of the ICRC analysed and commented on this situation and the resulting difficulties in a study that was attached to the 35th circular of the ICRC and bore the title *Is the Geneva Convention being complied with in the war in Serbia?*³⁴ Moynier began expressing the opinion that Montenegro and Serbia did have sufficient independence and autonomy to enable them to accede in their own right to the Convention. He then posed the following question: “*Can it be said that a State signatory to the Geneva Convention is at liberty to deny its subjects or rebellious vassals the benefit of the Convention?*” His answer was naturally in the negative. He argued that the 1864 Convention was a kind of moral code binding on the signatory States *in all circumstances*. He then developed these arguments in a text that seemed to foreshadow Article 3 common to the 1949 Geneva Conventions:

“There would be nothing questionable about an affirmative answer if the Convention offered the governments party to it advantages only on a reciprocal basis, as would be the case in a trade agreement or postal convention. But the Geneva Convention is more than that. Nothing in its wording limits its effects to the contracting parties; on the contrary, all its articles are couched in very general terms, as though expressing rules to be observed not only in relations among the signatories, but in all circumstances. It is a sort of declaration of humanitarian faith, a moral code which cannot be binding in certain cases and optional in others [...]”.

Thus, Moynier observes, if in an international conflict “*all signatories to the Geneva Convention are morally bound to abide by it in dealing with any adversary, then this should be even more so in internal conflict*”. Civil wars are generally bloodier than others, but the greater the evil, the greater the need to resist it, and it is up to the States party to the Convention to set an example of clemency for their fractious citizens. In this regard he cited the precedent of Spain which, in the civil war of 1872 “*declared that the wounded, the physicians and the field hospitals in the Carlist camp would be treated in full observance of the Convention*”.

The extension of the conflict to Russia in April 1877 had given it an unquestionably international character. The Russian government, which

³⁴ ICRC, 35th circular, 21 September 1876.

had issued precise instructions to its armed forces to observe the Convention, officially declared its acceptance of Turkey's request that the red cross emblem should be replaced by a red crescent in the Ottoman medical units, provided that the Turks respected the traditional emblem. The International Committee asked one of its members, Professor Adolphe d'Espine, to set up an international relief agency at Trieste, which he did on 7 July 1877.

But let us return to the work of the Institute of International Law. The Treaty of San Stefano of 3 March 1878, and the Treaty of Berlin on the following 13 July, had terminated three years of fighting on the Balkan Peninsula. But the extreme fierceness of the fighting had shown even more clearly than the war of 1870 that the law in force was inadequate and that even the rules whose applicability was not in dispute were all too often flouted by the combatants.

At the Brussels session of 1879, Moynier, who was rapporteur of the fifth commission (*Regulations concerning the laws and customs of war*), tabled a report requested by the Institute on the status of the codes and regulations concerning the laws and customs of war issued by different governments. His conclusions were hardly optimistic. Apart from Lieber's "Instructions" (1863), the existing national laws were not of recent date, some being so old and obsolete, the rapporteur noted, that one would certainly not think of referring to them in wartime: "*The Governments themselves are quite perplexed about what instructions they ought to be giving to their soldiers and this is undoubtedly part of the reason that most of them refrain from issuing instructions in this regard*".³⁵

Therefore, Moynier submitted the following two proposals to his colleagues:

- (1) He suggested that international conventions on the law of war should receive a new provision to the effect that the powers bound by them undertake to inflict severe penalties upon violators. The rapporteur also asked the Institute to study ways of influencing governments by

³⁵ Fifth study commission — *Regulations concerning the laws and customs of war*, report by Gustave Moynier. *Annuaire*, Vol. 3-4, 1880, t. I, pp. 312-320. In a letter of 1 December 1880, the Vice-President of the Central Committee of the Serb Red Cross informed Gustave Moynier that the Serb Government, following appeals by the Institute of International Law, had drawn up and published a manual entitled *Laws of war under international law*, which was given to all officers. (*Annuaire*, 6th year, 1883, vol. 2, pp. 283-285). See also "La Guerre d'Orient et la Conférence de Bruxelles", by Prof. de Martens, *Bulletin international*, 14th year, 1883, pp. 36-54.

moral suasion — more compelling than obligations deriving from humanitarian commitments devoid of penalties.

- (2) He suggested that the Institute work towards fulfilling the ideals enunciated at the meeting in the Hague, in particular the following: *"It would be desirable for the laws of war to be regulated by treaty, declaration or some kind of agreement among civilized states"*.

During the deliberations of the fourth plenary session, several speakers proposed instructing the fifth commission to draft a *Practical Manual of the Laws of War*. Professor Rolin-Jaequemyns made a positive proposal in that connection. To conclude, the meeting adopted Moynier's first proposal, together with that of Bluntschli.

The members of the fifth commission made Moynier responsible for preparing a draft, to be based on his work on the law in force, the Brussels Declaration, the manuals recently adopted in France, Russia and in the Netherlands and on Lieber's "Instructions". On 15 February 1880, Moynier forwarded the first draft to his colleagues, and then revised it on the basis of their comments and observations.

The second draft completed, Moynier circulated it to all the members of the Institute. The commission then met at Heidelberg from 18 to 20 June. Having agreed on the final version of the *Manual*, the members in attendance³⁶ decided to submit it for approval to the next session of the Institute.

The Institute met at the Oxford Divinity School on 6 September 1880. Moynier, as rapporteur of the fifth commission, submitted the draft *Manual* to the meeting. After recalling its history and describing its layout, he concluded:

"If implemented, our Manual would change existing custom in many ways leading to moral and legal progress, yet it is no more demanding than is public conscience. There is, therefore, a serious motive for us, as we decided in Brussels in 1879, to urge all civilized governments to use it and there is also reason to hope that it will meet with no opposition among them. The commission believes that like itself, the Institute will be persuaded of its value and that, having ratified the work submitted to it, will be good enough to afford our Manual the widest possible publicity, both in official circles and elsewhere".³⁷

³⁶ Present were: Bluntschli, Hall, Holland, Martens, Rivier, Schultze and Moynier.

³⁷ *Annuaire*, vol. 5, 1882, p. 156.

The meeting unanimously adopted the *Manual of Laws of Land Warfare* and decided to pay tribute to its drafter. At Martens' suggestion, the Institute gave a vote of thanks to Gustave Moynier, "*the skilled, enthusiastic and devoted rapporteur who is the principal or rather the true author of the Manual*".

The *Manual of Laws of Land Warfare*, also known as the *Oxford Manual*, was thus the culmination of the work done by the Institute to supplement or improve on the proposal of the Brussels Declaration in light of experience from the Russo-Turkish War. Establishing as the Manual's general principles respect for defenceless civilians, the loyalties involved in combat, and abstention from inflicting unnecessary suffering, Moynier systematically set out the laws of war in 86 articles, consolidating in a single document the provisions of humanitarian law and of the law of war *per se*: protection of the wounded and the sick and of medical personnel, respect for the dead, treatment of spies, restraint in bombardment, rules concerning private property, prisoners of war, internees in neutral countries, penal sanctions and regulations for retaliation. In addition, Moynier prefaced the *Manual*'s main provisions with brief commentaries explaining their purpose and meaning.

"*The Institute's Manual*, he wrote, *was henceforth cited in laudatory terms by all those writing about the laws of land warfare. It was translated into several languages and often quoted by members of the Peace Conference in drafting the Hague Convention of 29 July 1899 to replace the draft Brussels Declaration. I naturally deeply regret not being able to participate in the assembly that took this decision and crowned the Institute's efforts. The Swiss Federal Council had paid me the honour of delegating me to attend but, owing to my state of health, I was unable to cope with the rigours of the trip*".³⁸

The Institute of International Law had provided Moynier with the scholarly milieu that suited his character and temperament: an association of erudite jurists small in number but representing the enlightened branch of the legal profession, international in composition but at the same time supranational (in that its members were not actual representatives of the States of which they were citizens), a common perception of law and relations of friendship and trust among its members: "*He threw himself wholeheartedly into it, unleashing his boundless enthusiasm and the sense of organization which he had so brilliantly demonstrated*".³⁹ In participat-

³⁸ G. Moynier, *Ma contribution...*, p. 26. ACICR, Moynier collection.

³⁹ Albéric Rolin, *Les origines...*, (cf. Note 4), p. 41.

ing in its work he had himself improved his knowledge of international law, which he had first developed in the humanitarian domain:

*"I personally very much appreciated the kind of verification practised by the Institute and submitted to it on several occasions, participating actively in the other endeavours of this association whenever I believed I could usefully do so, for I took a genuine interest in it. The desire to justify my membership had also led me to devote greater attention to international law than previously and I may say that it helped to make my work more rigorous and to make me more careful in expressing my thoughts".*⁴⁰

In March 1890, Moynier had submitted a paper on the Institute of International Law to the *Académie des sciences morales et politiques* in Paris, of which he had been named correspondent on 12 June 1886, becoming a foreign associate on 15 March 1902. The following is an excerpt from the conclusion expressing his confidence in the Institute's peace-promoting endeavours:

"Imbued with the profound truth that the 'scientific spirit is the true architect of progress'⁴¹, it draws inspiration from the one to accompany the other, or rather, to advise unofficially those who hold the reins of power and to whom it must leave the responsibility for implementation. By striving to replace customary international law — under which we generally live — with written international law, or, if you prefer, 'the transformation of a society of nations based on arbitrariness into a society based on law'⁴² and, in preparing the legal drafts of international covenants in that regard, it assists and stimulates the leaders of nations in accomplishing one of their more delicate tasks. If it continues along these lines, it will make a powerful contribution to installing the rule of law in the natural relations between States, and in so doing safeguard the inevitable contact among them from taking a disastrous turn.

⁴⁰ G. Moynier, *Réminiscences*, p. 32. Gustave Moynier continued to take active part in the work of the IIL. At its 1883 session in Munich he tabled a report on the Congo question at the sessions of Brussels in 1885, Heidelberg in 1887 and Lausanne in 1888; he submitted several papers on the subject of railways in wartime. He was appointed chairman of the Institute at its Geneva session in September 1892, honorary president on 26 March 1894 in Paris and honorary member on 18 August 1898 in The Hague.

⁴¹ Dameth, *Le juste et l'utile*, p. XIV. (Note by G.M.)

⁴² Rolin-Jaequemyns, *Revue de droit international*, V. 463. (Note by G. M.).

"In other words, its main focus is the pursuit of peace and, as such, responds to the aspirations of our time. Bluntschli has stated that 'international law is one of the sturdiest guarantees of peaceful relations among peoples'.⁴³ The Institute will therefore place the weight of its peace-seeking endeavours on the scales holding the destinies of nations, so as to counterbalance the opposite influence which takes the form of the terrifying advances in weaponry. The more solid and universally established its credibility, the more its voice will be heard and the less often will there be conflicts".⁴⁴

But the wars in the Balkan Peninsula were far from over. The provisions of the Treaty of Berlin had brought no more than temporary respite to the nations in conflict, without resolving the political problems dividing them. Insurrections and internal conflicts flared up periodically with the same violence as when members of the Institute of International Law had reminded the belligerents that while warfare led all too naturally to violation of the laws of humanity, the supreme goal of law, which is to maintain humane relations among human beings, should apply just as much to the conduct of war.*

André Durand is a former delegate general at the ICRC. His publications include *History of the International Committee of the Red Cross — from Sarajevo to Hiroshima* (Henry Dunant Institute, 1978) and *The International Committee of the Red Cross* (Jean Monnet Foundation for Europe, European Research Centre, Lausanne, Switzerland, 1980). Mr Durand has written a number of articles on the Movement's history, some of which have been published in the *Review*. The present article is taken from a series of biographical studies currently being written.

⁴³ *Communications et documents*, p. 77 (Note by G.M.).

⁴⁴ G. Moynier, *Institute of International Law*, Excerpt from the report of the *Académie des sciences morales et politiques*, Paris, Alphonse Picard, 1890. The text was read out to a gathering of the Academy by Léon Aucoc, jurist and former member of the State Council.

* The portrait of Gustave Moynier (p. 542) appears in the *Annuaire* of the Institute of International Law — tenth volume, 1888-1889 — Lausanne Session, September 1888. Librairie Européenne C. Muquardt, Brussels, 1889 (Bibliothèque cantonale et universitaire, Lausanne).

The International Committee of the Red Cross and the Indochina War

From the Japanese defeat to the Geneva Agreements
(1945-1954)

by Florianne Truninger †

Institutions — like individuals — have a memory. They are rooted in it and draw strength from it to weather the vagaries of vogue and sentiment. To a large extent the historical consciousness is the source of the standards set for the present and for the future.

Yet time does take its toll, first dimming the memory of past events, then shrouding them in the mists of oblivion.

Hence the importance of the historian, whose task it is to reconstruct the past, separating extraneous detail from the core so as to reveal the underlying forces that determine the course of history.

*In order to preserve the memory of its past activities, the International Committee of the Red Cross (ICRC) commissioned two talented historians to tell the story. In 1963, the late Pierre Boissier gave us **From Solferino to Tsushima**, the first volume of the history of the ICRC, and in **From Sarajevo to Hiroshima**, published in 1978, André Durand continued the account up to the end of the Second World War.*

Some time ago the ICRC commissioned Florianne Truninger to continue the work of her two predecessors; the third volume of the history of the ICRC will cover the period from the end of the Second World War

to the October crisis of 1956, which was a watershed in the history of the Cold War. She brought to the project her experience and detailed knowledge of the history, principles and policy of the ICRC which she had served for some twenty years, as well as her uncompromising intelligence and incomparable mastery of the French language. Sadly, death interrupted the drafting of the work with which she had so fully identified as to devote her last energies to it.

She had already researched several chapters but was able to give final form only to the one covering the activities of the ICRC during the first Indochina War.

*Owing to the interest of the account and in homage to our colleague whom we have lost too soon, this chapter naturally has its place in the present edition commemorating the 125th anniversary of the **International Review of the Red Cross**.*

François Bugnion

FROM JAPANESE CAPITULATION TO FRENCH DEFEAT

After the fall of France in 1940, Japan occupied Indochina and gradually extended its influence by virtue of political and military agreements concluded with the Vichy Government. It was only at the cost of repeated humiliations which discredited them in the eyes of the Vietnamese that the French clung to a semblance of power in Indochina until 9 March 1945, the date marking Tokyo's ousting of the colonial administration and army. Even as Japan waged a war of conquest in South-East Asia, it was spreading an image of the superiority of the yellow race and the idea of pan-Asianism, thereby arousing nationalist sentiment.

By 1941, Ho Chi Minh was already preparing his return to Vietnam from China after 25 years largely spent studying socialism, and then Communism, in France and in Moscow. He assumed leadership of a resistance movement against the foreign presence, denouncing collusion between Japanese expansionist ambitions and French colonialism. In 1941, he created the Viet Minh (the League for the Independence of Vietnam), structured mainly around the Indochina Communist Party which he had founded in 1930 following the crushing of anti-colonialist uprisings in Vietnam. Unlike other nationalist parties, the Viet Minh not only demanded independence but also wished to transform society and to install a broad-based government. It accordingly set about infiltrating all sectors of national life. The Japanese takeover in March 1945 and the defeat of Japan in August created new possibilities for him, thanks to the ultimate destruction of all French and Japanese authority. On 13 August the Viet Minh ordered a general uprising and effectively gained control of the northern provinces, after forcing Emperor Bao Dai to abdicate and setting up political and military commandos throughout the peninsula. This was done before foreign troops could establish a foothold in Indochina by virtue of the Potsdam Agreements,¹ under which Chinese

¹ The Potsdam Conference brought together in the Berlin suburb from 17 July to 2 August 1945 President Truman — who had just succeeded Roosevelt following his death a few weeks earlier — Stalin and Churchill, who was replaced by Clement Attlee on 26 July when the results of the general elections became known. As the first summit meeting of the leaders of the "Grand Alliance" following Germany's capitulation, the Potsdam Conference had the task of deciding the fate of Germany, Poland and other countries of central and eastern Europe, but it also dealt with further operations in the war against Japan. Nevertheless, the disappearance of the common enemy revealed such antagonism between the British/American statesmen and their Soviet ally that this third summit — after those of Teheran and Yalta — was also the last. In retrospect, the Potsdam Conference may be considered as the starting point of the Cold War.

forces were to disarm Japanese troops to the north and British forces those to the south of the 16th parallel. Ho Chi Minh took advantage of this situation to proclaim the restoration of national independence and the creation of the Democratic Republic of Vietnam (DRV) in Hanoi on 2 September 1945.

But France had entered Indochina as early as 1858. From 1885 on it had dominated the peninsula comprising Vietnam (divided into the two protectorates of Tonkin and Annam), Laos and Cambodia, as well as the colony of Cochinchina, and held considerable economic, financial, cultural and religious sway. France therefore intended to recover sovereignty over this part of its colonial empire as it was doing by force of arms in North Africa and later in Madagascar. In agreement with the British, France set out to reoccupy Cochinchina and dispatched an expeditionary force under General Leclerc to retake control of Saigon, at the same time appointing Admiral d'Argenlieu as High Commissioner of France in the autumn of 1945. France then negotiated with the Chinese their evacuation of Tonkin and their recognition of French sovereignty there.

Willing to grant self-governing status to the new republic, France concluded that it was necessary to reach an *entente* with the Viet Minh who were themselves harbouring misgivings about China's territorial ambitions. On 6 March 1946 a Franco-Vietnamese agreement was signed under which the Republic of Vietnam became a free state within the French Union and the Indochinese Federation, which also included Laos and Cambodia. Vietnam agreed to the return of the French army, which was to take over from Chinese troops and assist in creating and training the Vietnamese army. France undertook to respect the decision of the people, who were to be consulted by referendum concerning the reunification of the three Vietnamese provinces, the Viet Minh's chief demand.

But France was pursuing a dual policy at the time: on the one hand, that of General Leclerc and Jean Sainteny, Commissioner of the French Republic in Tonkin, which led to an agreement with Ho Chi Minh whereby Vietnam was to become a self-governing state within the French Union; on the other, that of Admiral d'Argenlieu, inspired by the French in Cochinchina itself and aimed at restoring French authority by force, partitioning Vietnam in the process.

As negotiations went ahead for the implementation of the agreement, the policy of High Commissioner d'Argenlieu culminated in the proclamation of the autonomous Republic of Cochinchina on 1 June 1946. This

was viewed by Ho Chi Minh's Republic of Vietnam as a violation of the agreement of 6 March 1946.

The Conference of Fontainebleau, which started on 7 July 1946, failed to reconcile the French and Vietnamese views on the status of Vietnam within the French Union. It concluded with the signing on 14 September 1946 of a *modus vivendi* which resolved none of the issues of greatest importance to the Viet Minh: independence, Cochinchina, the army, diplomacy.

Soon after, in autumn, the situation deteriorated. While attacks and acts of intimidation steadily multiplied in Cochinchina, serious disturbances took place in Tonkin. After a clash between French and Vietnamese troops in Haiphong harbour, the French navy bombarded the city on 23 November 1946 killing thousands of civilians.

Peace-seeking endeavours failed: Vietnam wanted independence and France was out to reassert its sovereignty. Agreement could no longer be reached. On 19 December 1946 fighting broke out between the Viet Minh militia and French troops, which attacked the presidential headquarters of the Democratic Republic of Vietnam in Hanoi. The Ho Chi Minh Government left the capital, calling for a general insurrection. The Vietnamese forces withdrew to the Tonkin highlands, taking with them more than 200 French civilians as hostages.

These events marked the start of the First Indochina War which pitted France and the Democratic Republic of Vietnam against each other, while the USSR, the USA and the People's Republic of China, three players with considerable influence over the main protagonists, bided their time behind the scenes.

The USSR's aim was to weaken and drive France out of Indochina; it supported the Democratic Republic of Vietnam out of ideological affinity.

The US position was ambivalent: Roosevelt pursued the strategy of evicting the French from Indochina in favour of China, his ally against Japan. For a time the Americans were favourable to the Viet Minh in the name of anti-colonialism, but later turned away from them on realizing the revolutionary content of Vietnamese resistance. They nevertheless withheld their support from France until 1950. With the emergence of the People's Republic of China and the start of the Korean War, the USA

reviewed its policy. The ideological alignment of the Democratic Republic of Vietnam with North Korea led it to perceive the war in Indochina as one of the fronts on which to stem the advance of Communism, and consequently to support France.

The People's Republic of China supported the Democratic Republic of Vietnam. The arrival of Chinese Communists at the Vietnamese border consolidated the Franco-American *rapprochement*. The French army thenceforth played the role of defending the free world and South-East Asia against the advance of Communism.

The proposals for a cease-fire and the resumption of negotiations tabled by both sides fell through in 1947 and, as of the autumn, all hope of a peaceful settlement between France and the Democratic Republic of Vietnam was abandoned. The French Government, dominated chiefly by the Popular Republican Movement, decided to seek a solution to the conflict by circumventing Ho Chi Minh. Its objective was to form another Vietnamese state under the aegis of Saigon and completely eliminate the Democratic Republic of Vietnam. It decided to recall the former emperor Bao Dai, who could rally right-wing nationalists around himself to form a counterweight to the revolutionary nationalism of Ho Chi Minh, and to install a regime in Vietnam that would make it possible to safeguard to some extent most of France's positions.

Knowing that he would lose all credibility if he failed to achieve unity and independence, Bao Dai initially allowed a provisional central government to be set up in Saigon in May 1948 with General Xuan at the helm. On 5 June 1948 in Ha Long Bay he countersigned the joint declaration by General Xuan and the High Commissioner, Emile Bollaert, by which France recognized Vietnam's independence, the country then being left free to achieve unity. At the same time, Vietnam joined the French Union as an associated state.

Supported by the USA, Bao Dai promptly launched fresh negotiations with France to achieve real independence. Under such pressure, the French Government made major concessions and an agreement was signed between Bao Dai and President Auriol in Paris on 8 March 1949 whereby France recognized Vietnam's independence and unity, pending consultation of the people. Once the reunification of Cochinchina with Vietnam was approved by vote and Vietnamese

unity restored for the first time in 87 years, Bao Dai solemnly constituted the State of Vietnam in August 1949; France handed over sovereign powers and many services to it on 30 December that same year.

Through 1947 and 1948, the government of the Democratic Republic of Vietnam, still hoping for the resumption of negotiations with either France or Bao Dai with a view to the joint establishment of a national and democratic regime, followed a reserved and cautious approach. While it continued its guerrilla activities it was at the same time conserving its strength. But all hope of compromise was dashed by the proclamation of the State of Vietnam.

As of 1950, Vietnam became a focal point of East/West confrontation. Aided by China, the Democratic Republic of Vietnam, declaring itself to be the sole legitimate Vietnamese state, launched a military offensive in September in the north during which thousands of people were killed or taken prisoner. France and the USA for their part were training and equipping the Franco-Vietnamese army. In Vietnam, as in Korea, it was a matter of containing Chinese expansionism and halting the spread of Communism.

After a series of French victories at the beginning of 1951 that took a heavy toll on the forces of General Giap, head of the Democratic Republic of Vietnam forces, the military advantage shifted gradually as of summer 1951 in favour of the Democratic Republic of Vietnam, which again resorted to guerrilla and harassment tactics.

Heavy losses forced France in 1952 to abandon most of its positions in Tonkin and in the Thai region as guerrilla activity intensified in central and southern Vietnam.

In 1953 Giap's army invaded central and southern Laos and north-eastern Cambodia.

In March 1954, Giap laid siege to Dien Bien Phu, which fell on 7 May; French losses amounted to some 7,000 dead and 11,000 prisoners, while the enemy dead numbered 8,000. The Geneva Conference opened on that same day, attended by France and the three associated states (Vietnam, Laos and Cambodia), as well as its allies the USA, Great Britain, the USSR, the People's Republic of China and the Democratic Republic of Vietnam. So great was the interest of the powers in an expeditious end to the war that a compromise was reached. On behalf of France, Pierre Mendès France signed an agreement on 20 July 1954 providing for a cease-fire and a regrouping of Democratic Republic of Vietnam and

French Union forces on either side of the 17th parallel of latitude; this was to serve as a provisional military demarcation line between the northern zone, under the control of the Democratic Republic of Vietnam, and the southern zone, which was assigned to the State of Vietnam. The two zones were to consult with each other in 1955 with a view to holding elections and setting up a unified government by July 1956.

ICRC ACTIVITIES

ICRC offers of service

Upon arrival in Saigon in 1945 the ICRC delegate Henri Hurlimann placed himself at the disposal of the Anglo-American authorities, who assigned him the task of providing food to Allied prisoners of war held in two Japanese camps in Saigon until their repatriation one month later.² The gradual repatriation of some 65,000 Japanese prisoners of war and civilian internees,³ which took place without ICRC involvement, and the setting up of various support institutions enabled the delegate to devote himself to transmitting family messages and to delivering aid to certain categories of civilians until the closure of the delegation in May 1946.

The conclusion of the Franco-Vietnamese agreement on 6 March 1946 obviated the need for a delegate in Tonkin. The ICRC then decided to reorganize its delegations in South-East Asia by appointing Charles Aeschlimann as delegate based in Singapore, but also covering Hong Kong, Malaysia, Siam and Indochina. The French Government approved his appointment.⁴

Clashes between French forces and troops of the Democratic Republic of Vietnam led to the taking of civilian and military prisoners on both sides. The ICRC immediately offered its services to the French Govern-

² *Report of the ICRC on its activities during the Second World War (September 1, 1939 — June 30, 1947)*, Vol. I, *General Activities*, Geneva, ICRC, 1948, p. 507.

³ Letter of 6.2.46 from the Headquarters of the Supreme Allied Commander, South-East Asia, to H. Hurlimann. ICRC Archives — dossier G.17/69. Letter No. 8 of 18.4.46 from the ICRC to H. Hurlimann. ICRC Archives — dossier G.17/69.

⁴ Letter dated 29.6.46 from the Ministry of Foreign Affairs to the head of the ICRC delegation in France. ICRC Archives — dossier G.17/69 II.

ment, which did not initially deem them necessary, as it did not view these events as representing a state of belligerency in the legal sense of the term. The government argued⁵ that as the Indochinese dispute was an internal matter within the framework of the French Union and the limits of domestic law, it did not consider itself bound by the 1929 Geneva Conventions *vis-à-vis* the Democratic Republic of Vietnam — which it regarded as a band of rebels — the said Conventions being intended to apply to armed conflicts between States. The Democratic Republic of Vietnam furthermore did not enjoy international recognition when the conflict broke out nor was it a party to the 1929 Conventions. This situation considerably limited the ICRC's room for manoeuvre and, since it could not invoke the Conventions as a basis for action, it made use of its right of initiative to offer its services.

The French authorities in Hanoi and Saigon, however, disquieted by the plight of 425 civilians detained by the Viet Minh, announced that they wanted an ICRC delegate to be sent to Indochina. On 13 January 1947, the Commissioner of the French Republic in Tonkin, Jean Sainteny, was informed of the imminent arrival of Charles Aeschlimann.⁶

In the meantime, the ICRC named a Dutch clergyman, Father Willigers, to act on its behalf. He immediately wrote to Ho Chi Minh, President of the Democratic Republic of Vietnam, as follows: “...*I am at your disposal to care for prisoners held in Hanoi and elsewhere by the French army. I stand ready to act as their intermediary, whether for the exchange of correspondence or to furnish them inasfar as possible with clothing, medicines or additional food supplies... However, just as I am willing to visit and bring physical and moral solace to Vietnamese held by the French, I would also request of you the facilities necessary to be able to visit and render similar services to prisoners of other nationalities detained by the Vietnamese*”.⁷ A similar initiative was taken *vis-à-vis* the Commander of the French forces with a view to “*establishing contact with*

⁵ Memorandum addressed to Mr. Aeschlimann delivered on 26.1.47 by Mr. Royère, Diplomatic Counsellor to the High Commissioner. ICRC Archives — dossier G.17/69 II. Note No. 5544 of 7.1.47 from the Paris delegation to the ICRC. ICRC Archives - dossier G.17/69 II.

⁶ Telegram No. 9610 of 13.1.47. ICRC Archives — dossier G.17/69 II.

⁷ Letter of 17.1.47 from the provisional ICRC delegate, Father Willigers, to the President of the DRV, Ho Chi Minh. ICRC Archives — dossier G. 17/69 II.

*Vietnamese prisoners held by the French army and providing them with the Red Cross services that are usual in such circumstances”.*⁸

Soon after arriving in Saigon on 23 January and in Hanoi on 29 January, Charles Aeschlimann took up the first contacts with both the French and the Vietnamese authorities and with their Red Cross organization so as to ensure humane treatment of all victims of the conflict regardless of nationality, race or religion.⁹

Initiatives to visit prisoners in Vietnamese detention

Having been put in touch with Hoang Minh Giam, future Minister of Foreign Affairs of the Democratic Republic of Vietnam, and with Dr. Tung of the Vietnamese Red Cross organization, Charles Aeschlimann was told that he could visit all the places he wished to see on Vietnamese-controlled territory.¹⁰ Thus, on 7 February 1947 he visited the Hoa Binh camp containing 171 French prisoners, to whom he brought food and medicines; he observed that the treatment being given to them was in general satisfactory. On the following day he saw 10 people who had been taken prisoner on 22 December 1946.¹¹ In response to his official request for the release of women, children and the elderly, 29 civilians, including 19 French and 10 British were handed over to him on the Hanoi/Hadong highway where a cease-fire had been ordered.¹²

On 25 April, Charles Aeschlimann and his successor, Dr. Descœudres — together with Professor Huard, President of the French Red Cross in

⁸ Letter of 19.1.47 from the provisional delegate, Father Willigers, to the Commander of the French forces in northern Indochina, General Morlière. ICRC Archives — dossier G.17/69 II.

⁹ Note of 20.1.47 from the head of the Delegations Department, R. Voegeli, to C. Aeschlimann in Saigon. ICRC Archives — dossier G.17/69 II.

At that time the Red Cross of the Democratic Republic of Vietnam (DRV) did not yet fulfil all the conditions for recognition as a full member of the International Red Cross.

¹⁰ Letter dated 8.2.47 from the DRV government's Under-Secretary of State for Internal Affairs, Hoang Huu Nam. ICRC Archives - dossier G.17/69 II.

Note No. 6188 of 17.4.47 from the Paris delegation on the Giam/Aeschlimann meeting of 21.2.47. ICRC Archives — dossier G.17/69 II.

¹¹ Note No. 5837 of 17.2.47 from the Paris delegation. ICRC Archives — dossier G.17/69 II.

¹² Cablegram No. 6267 of 10.3.47 from C. Aeschlimann. ICRC Archives — dossier G.17/69.

Hanoi, and a representative of the Consulate of China — held a meeting with Dr. Tung between the battle lines at the Rapids Bridge near Hanoi to discuss the fate of civilian and military prisoners. They gave him correspondence, aid and medicines intended for internees and for the Vietnamese Red Cross organization.

The meetings continued between the battle lines until July 1947, although they were difficult to organize not only because of the complete destruction of communication facilities but also because they entailed the negotiation of a cease-fire.¹³ Dr. Descoedres wrote of the meeting of 7 May as follows:

*“... On the Vietnamese side the cease-fire had been ordered. We immediately replied confirming our agreement and requesting the French military authorities also to institute a cease-fire at the place and time indicated... We had a long discussion of all the issues of interest to the ICRC. Mr Giam stated his readiness to accord all facilities to the ICRC delegate for the accomplishment of his mission which had become extremely difficult, owing to the complete chaos created on Vietnamese territory by military operations: all roads have been either cut by barricades or mined, means of transport are virtually non-existent over considerable distances, very precarious material existence”.*¹⁴

On 7 May the two delegates met Dr. Tung and Hoang Minh Giam, by then appointed Minister, whose permission they requested to revisit the camps of French internees. The reply, communicated on 19 May, was negative *“on account of serious material difficulties”*.¹⁵ On 22 June a new appointment was arranged:

“... With the aid of the French military authorities, we took the steps necessary for organizing our journey. On 22 June at 6.30 a.m. we left Hanoi aboard two French naval landing craft and sailed slowly up the Red River against a very strong current as the river was swollen. At 10 a.m. we passed the last French post without incident and arrived at the appointed place at 12.30 p.m. A Vietnamese boat was awaiting us, moored ashore and flying the Vietnamese and Red Cross flags. A Vietnamese military detachment paid us honours (in the presence of French military personnel!) and the British and Indian Consuls and I disembarked. We

¹³ *Revue internationale de la Croix-Rouge (RICR)*, No. 346, October 1947, pp. 813-818.

¹⁴ Letter No. 2 of 9.5.47 from Dr. Descoedres. ICRC Archives — dossier G.17/69 II.

¹⁵ Letter No. 3 of 23.5.47 from Dr. Descoedres. ICRC Archives — dossier G. 17/69 II.

were received at the little school in a neighbouring village by the local dignitaries, by Mr. Hoang Minh Giam, Minister of Foreign Affairs of Vietnam, and Dr. Le Van Hieu, delegate of the Vietnamese Red Cross".¹⁶

Hoang Minh Giam announced that it was still not possible to visit the prisoner camps, whereas the request for the release of women, children, the sick and the elderly might receive some consideration.

On 18 July, Dr. Descoeurdes again met with Vietnamese Red Cross representatives. He described that meeting as follows:

*"... I went to the Rapids Bridge in my jeep flying the Red Cross and American flags (I was in fact accompanied by an American journalist who was hoping to be able to enter Vietnamese territory, which was refused), followed by two lorries transporting all the packages destined for prison camps and French internees. At about 1 kilometre from the last French post, between the lines, is a partly destroyed pagoda where we awaited the Vietnamese representatives. It was a long wait. Shortly after 1 p.m. (the appointment having been set for 10 a.m.) we sighted the Vietnamese party against the horizon walking along the dike, preceded by the Vietnamese and Red Cross flags. We advanced to meet them and returned to the pagoda together... We separated at 3 p.m., whereupon I requested the French authorities to prolong the cease-fire until 6 p.m. to allow the Vietnamese enough time to take all our packages".*¹⁷

The delegate delivered a letter addressed to President Ho Chi Minh requesting the release of certain categories of internees. In his reply, delivered by hand on 21 August, Ho Chi Minh assured the delegate that "we are still prepared to grant your wish as soon as material conditions permit".¹⁸

During these meetings, the delegate delivered aid, funds, vaccines and DDT to the Vietnamese representatives and also passed on correspondence from prisoners. He informed them of his visits to Vietnamese prisoners in French hands, though his requests to visit French prisoners received only delaying replies. On 27 July he made a radio appeal to the Vietnamese authorities urging them to grant him a new appointment with a view to "the release of internees that was promised so long ago", which "will be a token of the goodwill of the Vietnamese Government towards

¹⁶Letter No. 8 of 23.6.47 from Dr. Descoeurdes. ICRC Archives — dossier G.17/69 II.

¹⁷Letter No. 19 of 19.7.47 from Dr. Descoeurdes. ICRC Archives — dossier G.17/69 III.

¹⁸Letter of 29.7.47 from Ho Chi Minh. ICRC Archives — dossier G.17/69 II.

the work of the ICRC". He warned that if refused he would leave Indochina and return to Switzerland, where he would report to the ICRC.¹⁹ He returned to Geneva at the end of August 1947.

Visits to prisoners in French hands

While in Hanoi in February 1947, Charles Aeschlimann, in accordance with the principle of impartial assistance to all victims of war, visited 193 Vietnamese prisoners of war at the Citadel and at the Yersin Hospital, as well as at four centres accommodating some 2,000 women and children.²⁰ This visit, made at the delegate's own initiative, drew protest from the Saigon authorities who had not been consulted and who wished to limit the activities of the ICRC strictly to "*civilians unduly detained by the Viet Minh*".²¹

The Quay d'Orsay, to which the ICRC explained that its activities in Indochina were based on the principle of reciprocity, immediately telegraphed instructions to Saigon that the mission of the ICRC delegate in Indochina was to be carried out in the traditional framework of neutrality and independence, in favour of all civilian and military victims of the conflict regardless of their allegiance, and that the High Commission should accord him all facilities.²²

Thereafter, and with the arrival of Emile Bollaert as the new High Commissioner, the Saigon authorities modified their approach, authorizing the ICRC to visit the two principal camps of Vietnamese prisoners in French hands in Hanoi on 23 April 1947, various camps in the Hanoi region on 11 and 12 June and the prison together with some camps in Haiphong on 27 June. Dr. Descoedres approached the Hanoi and Saigon authorities on several occasions calling for an improvement in the conditions of detention. These initiatives did produce some amelioration in the treatment of prisoners.²³ Following a visit to the central Saigon prison,

¹⁹ Letter No. 21 of 27.7.47 from Dr. Descoedres. ICRC Archives — dossier G.17/69 III.

²⁰ Letter of 26.3.47 from C. Aeschlimann. ICRC Archives — dossier G.17/69 II. Note No. 6188 of 17.4.47. ICRC Archives — dossier G.17/69 II.

²¹ Telegram of 15.3.47 from the High Commissioner in Saigon. ICRC Archives — dossier G.17/69 II.

²² Note No. 6228 of 9.4.47 from W. Michel to the ICRC. ICRC Archives — dossier G.17/69 II.

²³ Letter No. 10 of 28.6.47 from Dr. Descoedres. ICRC Archives — dossier G.17/69 II. Letter No. 14 of 5.7.47 from Dr. Descoedres. ICRC Archives — dossier G.17/69 III.

the delegate visited the Poulo-Condore camp on 10 July at the express request of the Vietnamese representatives. He furthermore obtained lists of Vietnamese prisoners in French captivity in Hanoi and in Saigon, in an endeavour to arm himself with the most cogent arguments for negotiating with the Vietnamese authorities the release of the French civilians in their power.

As the French Government²⁴ held the view that the events in Indochina were confined strictly to the domain of internal public law and that the military operations did not legally constitute a state of belligerency, the ICRC did not report on its visits to either of the parties involved, as it usually did in international armed conflicts. It did however keep both sides informed of the steps it took and dispatched a brief memorandum to Ho Chi Minh on the activities carried out by the delegate to assist Vietnamese nationals detained by the French authorities.²⁵

Action to help other categories of victims

The ICRC delegate was also responsible for enquiring after the fate of Spanish missionaries and Chinese or Indian nationals held by the Vietnamese. In a meeting on 7 May 1947 with Hoang Minh Giam, he learned that the Spanish missionaries were free, that they were pursuing their activities and did not wish to be evacuated to the French zone.²⁶ After talks between British and Chinese consular representatives and the Vietnamese authorities during the Rapids Bridge meetings on 25 April and 7 May 1947, the ICRC was no longer directly responsible for Chinese and Indian nationals affected by the events.

In addition, on two occasions in 1947 the delegate visited the Khan-Hoi camp in Saigon for Japanese prisoners and civilian internees, who were being repatriated.

²⁴Memorandum addressed to Mr. Aeschlimann delivered on 26.1.47 by Mr. Royère, Diplomatic Counsellor to the High Commissioner. ICRC Archives — dossier G.17/69 II. Note No. 5544 of 7.1.47 from the Paris delegation. ICRC Archives — dossier G.17/69 II.

²⁵Letter of 1.9.47 from the ICRC to the President of the DRV. ICRC Archives — dossier G.17/69 III.

²⁶Letter of 22.5.47 to the Legation of Spain in Berne. ICRC Archives — dossier G.17/69 II.

Continuation of the ICRC mission

Dr. Descoedres's departure did not signal the end of the ICRC's mission in Indochina, for Charles Aeschlimann continued to follow the situation closely from the delegation in Singapore.

The High Commissioner, who had at first envisaged dispensing with the ICRC presence in view of the persistent stalemate over the question of French civilians held by the Vietnamese, came out in favour of continuing the ICRC mission so long as it was not a one-way operation and the ICRC could exercise its mandate on Vietnamese-controlled territory.²⁷ He was given every assurance in that regard by the ICRC,²⁸ which also informed him of its simultaneous approach to Ho Chi Minh to obtain permission to visit French internees.²⁹

During a brief trip to Indochina in December 1948, Charles Aeschlimann realized that it was not possible to establish contact with representatives of the Democratic Republic of Vietnam and limited himself to renewing contact with the Red Cross and with the French authorities. In February 1948 he again visited Indochina, where he learned that the French Government no longer recognized the Ho Chi Minh Government and that the High Commissioner was opposed to the renewal of contacts in Indochina with the Democratic Republic of Vietnam as envisaged by the delegate.³⁰ Nevertheless, Emile Bollaert authorized him to hand over to the DRV Red Cross half a consignment of medical and other relief supplies donated by the Indian Red Cross, provided that the remainder went to the French Red Cross for distribution to the Vietnamese population in French-controlled territory. But the Indian Red Cross disapproved of this plan and sent the entire consignment to Bangkok for delivery to the representation of the Democratic Republic of Vietnam.³¹

²⁷ Letter dated 28.8.47 from the High Commissioner to the ICRC. ICRC Archives — dossier G.17/69 III. Note on the activities of the ICRC in Indochina, undated, 4 pages. ICRC Archives — dossier G.17/69 II.

²⁸ Letter dated 3.9.47 from the ICRC to the High Commissioner. ICRC Archives — dossier G.17/69 III.

²⁹ Letter dated 1.9.47 from the ICRC to the President of the DRV. ICRC Archives — dossier G.17/69 III.

³⁰ Letter of 23.2.48 from C. Aeschlimann to the High Commissioner. ICRC Archives — dossier G.17/69 III. Report No. 12 of 2.3.48 by C. Aeschlimann. ICRC Archives — dossier G.17/69 III.

³¹ Record of the meeting of 12.7.48 of the Delegations Commission. ICRC Archives.

In August 1948 the ICRC delegation in Paris again gave the French Government an outline of the institution's view as to the humanitarian tasks to be done in Indochina to help the various categories of victims belonging to all parties involved.³² At the beginning of December and again in March 1949, Charles Aeschlimann was able to discuss with the new High Commissioner, Léon Pignon, who promised him support and facilities.³³

Finally, in March and May 1949, a donation entrusted to the ICRC by Vietnamese in France was indeed partially used to provide assistance in the form of food, clothing and medicines to prisoners in French hands, the rest having been given to the delegation of the Democratic Republic of Vietnam in Bangkok in December 1948.

Moves to resume contact with the Democratic Republic of Vietnam

To resume contact with the Democratic Republic of Vietnam, Charles Aeschlimann turned to the latter's South-East Asia representation in Bangkok. He discussed with them means of passing on to the Vietnamese Red Cross organization the donations entrusted to him and renewed his request for permission to visit the French prisoners. His partners in dialogue, whom he met twice in the autumn of 1948 and to whom he expressed his disappointment at failing to obtain a favourable reply, advised him in December that the French offensive in the north made it impossible to move about in safety.³⁴

Charles Aeschlimann then tried to take up contact with the Nambo health service, comprising supporters of the Democratic Republic of Vietnam fighting in the south. On 21 May 1949 and again on 27 July he launched a radio appeal jointly with the French Red Cross requesting facilities for the exchange of correspondence and of information on

³² Note No. 9229 of 18.8.48 from W. Michel to the ICRC. ICRC Archives — dossier G.17/69 III.

³³ Note No. 9707 of 30.3.49 from the ICRC to its Paris delegation. ICRC Archives — dossier G.17/69 III. Letter 11/49 of 12.4.49 from C. Aeschlimann. ICRC Archives — dossier G.17/69 III.

³⁴ Letter No. 375/2688 of 2.12.48 from C. Aeschlimann. ICRC Archives — dossier G.17/69 III

military and civilian prisoners. The Nambo service replied that such arrangements did not fall within its purview but within that of its government, and that French prisoners in the south of Indochina were being well treated.³⁵

This refusal led the ICRC to approach the President of the Democratic Republic of Vietnam directly. In its letter to Ho Chi Minh, delivered to the representation in Bangkok, it recalled its activities in Indochina, especially those for the benefit of Vietnamese nationals, and requested an audience for its delegate to discuss a relief operation for internees and the civilian population in general, which was hard hit by the conflict. It further indicated its willingness to allow its delegate to stay as long as necessary on the territory of the Democratic Republic of Vietnam.³⁶ This initiative went unanswered.

Nevertheless, the ICRC was concerned about the train of events in China and Indochina. The People's Republic of China, proclaimed on 1 October 1949, and then the USSR, recognized the Democratic Republic of Vietnam and the Ho Chi Minh Government in January 1950. In February, the United States and Great Britain recognized the State of Vietnam and the Bao Dai Government to which France had transferred its powers on 30 December 1949, as well as the governments of Laos and of Cambodia. Assured of the support of China which was supplying it with modern weaponry, the Democratic Republic of Vietnam was then in a position to field a well equipped army and to back up its guerrilla tactics with large-scale operations. Disquieted by this situation, the USA increased its supplies of *matériel* to France. On the ground, military engagements increased and the number of prisoners grew on both sides.

It therefore seemed urgent to the ICRC to have a clear idea of its scope of action in Indochina and the Ho Chi Minh Government's views about the Geneva Conventions. It asked Pandit Nehru, a well-known Viet Minh sympathizer, to intercede on its behalf with the authorities of the Democratic Republic of Vietnam.³⁷ Throughout 1950 the ICRC repeatedly attempted to establish contact with the Democratic Republic of Vietnam

³⁵ Minutes of the meeting of 12.10.49 of the Delegations Commission. ICRC Archives. Letter of 16.9.49 from the DRV. ICRC Archives — dossier G.17/69 III.

³⁶ Letter of 25.11.49 from the ICRC Vice-President Mr. Bodmer to Ho Chi Minh. ICRC Archives — dossier G.17/69 III.

³⁷ Letter of 17.4.50 from ICRC President P. Ruegger to J. Nehru and reply of 22.4.50 from J. Nehru to P. Ruegger. ICRC Archives — dossier G.17/69.

and to explain to its representatives in Bangkok, with whom several meetings were held, and to those in Rangoon, the humanitarian aim and the neutral and impartial nature of its activities.³⁸ During missions to Burma by Dr. Marti in July and by Frédéric Siordet in December it renewed its offers of service to engage in such activities in territories under the control of Ho Chi Minh. The replies, which indicated a favourable disposition towards the principles of the Geneva Conventions, nevertheless contained very little by way of tangible results.³⁹ In May 1950, however, the Democratic Republic of Vietnam radio station "*The Voice of Vietnam*" started broadcasting messages from French civilian and military prisoners, as Charles Aeschlimann had repeatedly requested.⁴⁰

Contacts between the French Red Cross and the Vietnamese Red Cross organization

The French Red Cross, well established in Indochina, had been closely monitoring the first contacts between the ICRC and representatives of the Democratic Republic of Vietnam in 1947. Professor Huard, President of the Committee of the French Red Cross in Hanoi, had moreover accompanied the ICRC delegates during talks in April at the Rapids Bridge. After the departure of Dr. Descoedres and thanks to Prof. Huard, who had contacts in the Vietnamese-controlled zone, the French Red Cross was able to meet representatives of the DRV Red Cross on 4 October 1947 and again on 10 January 1949. These meetings led to the exchange of aid and correspondence across the battle lines.

In September 1950, the French Red Cross gave Charles Aeschlimann a list of 52 French civilians detained since December 1946 and whose release had been negotiated directly between the High Commission and

³⁸ *ICRC Report on General Activities (January 1 to December 31, 1950)*, p. 77.

Letter No. 17 of 12.5.50 from R. Gallopin, Executive Director, to C. Aeschlimann. ICRC Archives — dossier G.17/69 III.

Letter No. 37 of 10.8.50 to C. Aeschlimann. ICRC Archives — dossier G.17/69 III.

³⁹ Report of 30.7.50 by R. Marti on his mission to Burma. ICRC Archives — dossier G.17/69 III.

Report of 27.12.50 by F. Siordet and W. Michel on their mission in connection with Indochina. ICRC Archives — dossier G.17/69 III.

⁴⁰ Letter of 24.3.50 from C. Aeschlimann on his mission to Thailand. ICRC Archives — dossier G.17/69 III.

Letter of 20.5.50 from C. Aeschlimann. ICRC Archives — dossier G.17/69 III.

the Ho Chi Minh Government, and also reported to him on the recent exchange of prisoners that had taken place while he was still in Singapore.⁴¹

Then in October, the French Red Cross helped with the evacuation from That Khé of 180 wounded prisoners who had been handed over to it by the DRV Red Cross, using its planes to fly them out. In November it succeeded in obtaining an initial list of prisoners and wounded non-commissioned officers and soldiers who had been freed. It also secured certain facilities for sending prisoners news of their next-of-kin.⁴² The French Red Cross kept up fairly regular contact with the Vietnamese Red Cross organization in 1951 and this led to some exchanges of prisoners and correspondence.

Renewed contact with the Democratic Republic of Vietnam

While approaches to representatives of the Democratic Republic of Vietnam continued, Charles Aeschlimann — appointed ICRC delegate on special assignment as of March 1950 — paid several visits to prison camps controlled by the French authorities and obtained certain improvements in the treatment of inmates. At the request of the High Commissioner, he also visited some 27,000 Chinese nationalist refugees interned by the French authorities.⁴³ Dr. Marti, who took over from him in March 1951, paid a series of visits to military prisoners held by the French in each of the three zones of Vietnam, as well as in Cambodia and Laos.⁴⁴

Yet the resumption of contact with Ho Chi Minh's representatives remained top priority. To that end the ICRC decided to dispatch medical aid for all categories of victims of the fighting on the territory of the Democratic Republic of Vietnam and to notify President Ho Chi Minh accordingly. While returning from a mission to China, ICRC President

⁴¹ Letter of 29.9.50 from the French Red Cross in Indochina. ICRC Archives — dossier G.17/69 III.

Note No. 11963 of 3.10.50 from the head of the ICRC's Paris delegation, W. Michel. ICRC Archives — dossier G.17/69 III.

⁴² *ICRC Report on General Activities (January 1 to December 31, 1950)* p. 78.

Report by Dr. Marti on his mission to Vietnam from 28.3 to 9.6.51, 10 pages. ICRC Archives — dossier 200(69).

⁴³ *Ibid.*, p. 78.

⁴⁴ Report by Dr. Marti on his mission to Vietnam from 28.3 to 9.6.51, 10 pages. ICRC Archives — dossier 200(69).

Paul Ruegger made a stopover in Hanoi to inspect preparations for this relief operation.⁴⁵ He issued an urgent personal appeal to President Ho Chi Minh, asking for arrangements to be made to get the medicines to their destination. This appeal was broadcast several times by radio in March 1951.⁴⁶ Upon arrival on 23 May 1951 as the new head of delegation in Indochina, Paul Kuhne started paving the way for the planned relief operation and once again addressed a message to President Ho Chi Minh on 29 May. On 26 June he learned via the High Commission, which was monitoring all radio messages, that the DRV Red Cross had accepted the offer of medicines. On 27 June he responded by the same channel to President Ho Chi Minh, requesting a meeting with his representatives or those of his Red Cross organization in order to settle with them the arrangements for the relief operation.⁴⁷

After various exchanges of radio messages a meeting was arranged in Hung Hoa to the north-west of Hanoi on 26 July between the representatives of the Red Cross of the Democratic Republic of Vietnam and delegates Paul Kuhne and Alain Daulte, who arrived aboard French naval vessels that had been disarmed and fitted out with red crosses. The area designated for the meeting had also been declared neutral by the military authorities on both sides. The discussions were concerned with ways of carrying out the relief operation, as well as the activities of the ICRC in Indochina in general.⁴⁸ Although their brief was limited strictly to relief issues, the Vietnamese emissaries took note of the ICRC's requests on other matters. Paul Kuhne stressed how anomalous and inconvenient it was for the ICRC to have a delegation on the territory of only one of the parties to the conflict, explaining how much the ICRC would value the Democratic Republic of Vietnam's approval for a delegation or at least its consent to carry out temporary missions on its territory. He underscored the need for continuous co-operation with the DRV Red Cross in such spheres as exchanges of lists of prisoners, enquiries concerning missing

⁴⁵ During this mission, P. Ruegger met Chou En Lai to discuss, *inter alia*, the issue of Indochina, though the minutes of this meeting are not on record in the ICRC Archives. ICRC Archives — dossier 251 PR(34).

⁴⁶ Letter of 13.5.51 from Dr. Marti to the DRV Government, 2 annexes concerning the two appeals of 22-23.3.1951 and 1-2.4.1951. ICRC Archives — dossier 200(69). *RICR*, No. 388, April 1951, pp. 257-259.

⁴⁷ Note No. 12 of 28.6.51 from P. Kuhne, with 2 annexes concerning the message from the DRV Red Cross (26.6.51) and the message from P. Kuhne to Ho Chi Minh (27.6.51). ICRC Archives — dossier 200(69).

⁴⁸ Note No. 30 of 27.7.51 from P. Kuhne, 17 pages. ICRC Archives — dossier 200(69).

persons, and the transmission of messages between prisoners and their families. In this connection he gave his hosts messages destined for French detainees and entrusted to him by the French Red Cross. The consignment of medicines that he had brought with him was received with deep satisfaction, but the principle of delegates taking part in the distribution of relief supplies was rejected. The meeting ended with the promise of another meeting in the near future.

That meeting took place on 15 October 1951 at Hung Hoa, but with different representatives who brought no answers from their authorities to the questions put by the ICRC in July.⁴⁹ The requests for enquiries, for regular exchanges of information on detainees or missing persons and of correspondence between prisoners and their families, and for the *de facto* application of the Geneva Conventions of 1949 were under consideration by the competent authorities. The Vietnamese representatives also failed to bring lists of prisoners of war and internees held by the Democratic Republic of Vietnam which the ICRC had requested in exchange for a second consignment of medicines. The meeting nevertheless provided an opportunity to pass on letters addressed to French prisoners; it also enabled the ICRC to offer its services for the exchange of sick or wounded prisoners and to raise the question of its representation again with the authorities and the Red Cross of the Democratic Republic of Vietnam.

The meeting was in fact the last between the Red Cross of the Democratic Republic of Vietnam and the ICRC. ICRC appeals broadcast on 23 November 1951, 21 June and 2 September 1952 in an attempt to resume direct contact, as well as its requests for enquiries regarding missing French troops addressed by radio to the authorities of the Democratic Republic of Vietnam, fell on deaf ears.⁵⁰

Reorientation of ICRC activities

The ICRC believed that since the arrival of General Lattre de Tassigny in January 1951, the High Command had been placing less confidence than it would have hoped in its activities to help prisoners, the wounded and the sick in the hands of the Democratic Republic of Vietnam. Also

⁴⁹ Account by P. Kuhne of his mission to Indochina, 5 pages, minutes of 24.10.51 of a meeting of the External Activities Commission. ICRC Archives.

⁵⁰ *Report on the work of the ICRC (January 1 to December 31, 1952)*, pp. 50-51.

the High Command was itself launching initiatives that could cause confusion as to the ICRC's independence and neutrality, such as the solemn appeal on behalf of prisoners it made to its adversary on 28 July 1951 without informing the ICRC.⁵¹ The attitude of the High Commissioner, whose control over the various players in Indochina and the entire communications network was preventing the delegation from working normally, drew protest from the ICRC:

"...After two initial contacts across lines with technical co-operation of military authorities, ICRC now doubts ability to continue these attempts from French-controlled territory in absence of necessary independence stop. Must therefore consider seeking other channels for its humanitarian work on DRV-controlled territory, especially to help prisoners of war held by DRV stop. At all events, ICRC should be given assurance that:

"first, full confidence is placed in it concerning necessary impartiality and its primordial duty to help victims of conflict on both sides of front. To that end, it should be clearly understood that its delegation must be able to take up all contacts necessary to its work;

"secondly, communication between ICRC Geneva and this delegation will not be hindered in any way which could cast doubt on the latter's independence;

"thirdly, while maintaining fraternal contacts with French Red Cross in Indochina, ICRC must remain independent of the latter, as respective duties of both institutions are different stop.

"ICRC hopes that pursuant to spirit of four 1949 Geneva Conventions signed and ratified by France, High Commission will be good enough to give it such assurances stop. ICRC requests same in keeping with its principles and practice and deems them necessary to continue its activities in Indochina via channels used hitherto stop. Highest consideration. Ruegger President".⁵²

The firmness of this statement, contrasting as it did with the previous attitude of an ICRC that lacked a firm treaty basis for its action, was not unrelated to the entry into force of the Geneva Conventions of 1949 and their ratification by France, effective as of December 1951. Thereafter,

⁵¹ Note No. 31 of 30.7.51 from P. Kuhne. ICRC Archives — dossier 200(69).

⁵² Telegram No. 9952 of 28.12.51 from P. Ruegger to the High Commissioner of the French Republic to Saigon. ICRC Archives — dossier 200(69).

the French authorities, while continuing to affirm that the conflict was not international in character, expressed their intention "to respect the spirit and, insofar as the specific conditions of the struggle in Indochina permitted, the letter of the provisions of the Geneva Conventions of 12 August 1949".⁵³

The replacement of General de Lattre de Tassigny (dead in January 1952) by General Salan, as Commander-in-Chief and Jean Letourneau as High Commissioner in early 1952 signalled a softening of the line maintained in respect of the Democratic Republic of Vietnam and of the ICRC delegation.

Indeed, the military authorities no longer opposed the delivery of medicines to the enemy, even in the absence of supervision of or guarantees as to their distribution; they even dropped medical supplies by parachute intended for French prisoner camps.⁵⁴ The ICRC for its part received the assurance that it would be accorded every facility and full freedom of action to pursue its activities in accordance with its customary procedures.⁵⁵

Assigned to Saigon as of February 1952, André Durand cultivated good relations with the authorities, who placed all necessary means at his disposal for him to accomplish his task. He did likewise with the French Red Cross which, after his radio appeals of 15 February and 22 March 1952, managed to arrange a meeting on 15 May 1952 with the Red Cross of the Democratic Republic of Vietnam at Hung Hoa during which correspondence and medicines were handed over, though without reciprocation of any kind.⁵⁶ Good cooperation was also established between the ICRC's Central Prisoners of War Agency and the Prisoner Affairs Office, which was set up in January 1952 and run by the French army and the Red Cross and which centralized all aspects of tracing and enquiries concerning missing persons, as well as the handling of correspondence addressed to prisoners.

⁵³ Note No. 11 of 26.2.52 from A. Durand. ICRC Archives — dossier 202(69). Notes of 17.2.53 and of 27.10.53 from J. de Preux. ICRC Archives — dossier 202(69). Note of 11.1.54 from J.P. Maunoir. ICRC Archives — dossier 202(69).

⁵⁴ Report No. 2 of 3.3.52 from A. Durand. ICRC Archives — dossier 200(69). Internal Note of 6.6.52 from J.P. Maunoir, pp. 3-4. ICRC Archives — dossier 200(69).

⁵⁵ Note No. 22 of 1.2.52 from J. de Reynier. ICRC Archives — dossier 200(69). Report No. 3 of 17.3.52 from A. Durand. ICRC Archives — dossier 200(69).

⁵⁶ French Red Cross minutes of the meeting on 15.5.52. ICRC Archives — dossier 200(69). The ICRC did not attend this meeting.

To avoid any appearance of subordination to the French authorities and to the French Red Cross, the ICRC decided to separate very clearly the delegation's protection and assistance activities in the zone controlled by the forces of the French Union in Indochina from its attempts to establish contact with the Democratic Republic of Vietnam with a view to setting up a relief operation.⁵⁷ The ICRC thereafter ceased making radio appeals to the Democratic Republic of Vietnam from the State of Vietnam, preferring instead direct approaches to Indochinese representatives outside Indochina. Instructions were accordingly issued to André Durand stating that *"experience would seem to indicate that in the event of conflict or disturbances within a country, the ICRC can hardly act effectively vis-à-vis both sides through a single delegate. In addition to material problems preventing the delegate from maintaining contacts with the party in whose territory he does not reside, there is the risk of being judged — erroneously of course — as being too closely linked to the other side, whereas the independence and impartiality of the ICRC must not be placed in doubt"*.⁵⁸ At the same time, the ICRC informed Jean Letourneau that it deemed it preferable for its delegate in Indochina to refrain from personally seeking contact with the Democratic Republic of Vietnam and that it had decided to concentrate its activities on visits to military prisoners and internees (MPIs)⁵⁹ held by French Union forces. It wished therefore that visits to prisons and camps be continued according to the same procedures as hitherto.⁶⁰

Indeed, in addition to the thirty or so visits to MPI camps conducted in 1952 by the ICRC delegate, about thirty others took place in 1953 on Vietnamese, Laotian and Cambodian territory. These visits were generally fairly official in that the delegate was provided with escorts and means of transport by the authorities and was almost constantly accompanied by a French officer. Relations with the camp authorities were on the whole good: all facilities were accorded for visits to all premises and to consult camp records. Interviews without witnesses were freely allowed, though

⁵⁷ Record of the work session of 5.3.53. ICRC Archives.

⁵⁸ Note of 26.3.53 from J. Chenevière, ICRC Vice-President. ICRC Archives — dossier 200(69).

⁵⁹ The French authorities drew a distinction between prisoners who were regular Viet Minh troops and military internees, comprising civilians who had taken up arms, organized or participated in attacks or transmitted messages or intelligence. Note No. 11 dated 26.2.52 from A. Durand. ICRC Archives — dossier 210(69).

⁶⁰ Letter of 2.4.53 from R. Gallopin, Executive Director, to J. Letourneau, minister responsible for relations with associated States. ICRC Archives — dossier 200(69).

there was distrust and reticence on the part of prisoner representatives — the *cai* — *vis-à-vis* the delegate, whom they equated with a Frenchman. It took repeated visits to win the confidence of the *cai*, to grow better acquainted with them and to get them to speak freely.⁶¹ Each of these visits, often followed by a distribution of relief supplies, afforded André Durand an opportunity to indicate orally to the detaining authorities the improvements that were desirable, and these were generally made.⁶² Nevertheless, no official intervention took place before Dien Bien Phu in an attempt to avoid jeopardizing French authorization of ICRC access to camps.

At the ICRC's request, a delegate, Dr. Aguet, visited Chinese troops interned in Indochina in April 1953 before some 30,000 of them departed for Formosa.⁶³

Approaches to the Democratic Republic of Vietnam from Geneva

ICRC attempts to deal with the Democratic Republic of Vietnam through the intermediary of India proved fruitless. A mission by ICRC President Paul Ruegger to Moscow in November 1950 was no more successful. Attempts to resume relations with the Democratic Republic of Vietnam on the Asian continent were doomed to failure.⁶⁴ Hence, after the reorientation of the activities of the delegation in Indochina, all attempts to communicate with the authorities of the Democratic Republic of Vietnam were made from Geneva, via the embassy of the Democratic Republic of Vietnam in Peking. The ICRC therefore contacted that embassy for the

⁶¹ Notes No. 11 of 26.2.52 and 229 of 24.8.53 from A. Durand. ICRC Archives — dossier 210(69).

⁶² It should be recalled that, in the absence of reciprocity, the ICRC did not transmit official reports to the French Government, instead it submitted a list of the issues raised to enable it to monitor the follow-up given during subsequent visits.

⁶³ Minutes of the ICRC plenary meeting of 16.4.53. ICRC Archives.

Minutes of the plenary meeting of 25.6.53. ICRC Archives.

⁶⁴ Mission to Moscow from 8-20 November 1950 during which P. Ruegger had talks with A. Gromyko, Deputy Minister of Foreign Affairs. The meeting had no precise agenda, but a review of the ICRC's current activities had been envisaged. Although the Indochina question was included, no minutes of the meeting either with the Alliance of Red Cross and Red Crescent Societies of the USSR or with government authorities have been found on file. ICRC Archives — dossier G.3/Pra.

forwarding of mail addressed to French prisoners and letters from Vietnamese prisoners to their families in the Democratic Republic of Vietnam.⁶⁵ This means of transmission via Peking worked successfully until the signing of the peace accords. All messages addressed by the ICRC to the authorities of the Democratic Republic of Vietnam to apprise them of its activities which it had already been carrying out for two years to assist Vietnamese prisoners in French detention,⁶⁶ to offer them supplies of medicines or to enquire about possible needs on the part of the Vietnamese health services were also entrusted to this embassy.⁶⁷ These approaches, however, remained without avail. The ICRC failed to persuade the Democratic Republic of Vietnam to change its stance on access to its territory for ICRC delegates.

From Dien Bien Phu to the Peace Accords

The attack on the fortified garrison at Dien Bien Phu by General Giap's troops, shelling by Vietnamese artillery and bombardment by French aircraft made it more difficult each day to protect the wounded of both armies in the conflict.

After accusations that the French forces had been napalm bombing medical units and evacuation convoys to the rear of Democratic Republic of Vietnam troops and transporting munitions in medical aircraft marked with the red cross emblem, several of their aircraft bearing the emblem came under enemy fire while evacuating the wounded.⁶⁸

⁶⁵ Letter of 21.7.53 from L. Boissier to Ho Chi Minh. ICRC Archives — dossier 272(69).

Letter of 14.8.53 from the Embassy of the DRV in Peking to L. Boissier. ICRC Archives — dossier 272(69). Letter of 11.9.53 from L. Boissier to the Embassy of the DRV in Peking. ICRC Archives — dossier 272(69). Letter of 4.12.53 from L. Boissier to the Embassy of the DRV in Peking. ICRC Archives — dossier 272(69).

⁶⁶ Letter of 24.12.53 from L. Boissier to Hoang Minh Giam. ICRC Archives — dossier 200(69).

⁶⁷ Letter of 19.9.53 from L. Boissier to Ho Chi Minh. ICRC Archives — dossier 280(69).

Letter of 17.2.54 from ICRC Vice-President F. Siordet to Ho Chi Minh. ICRC Archives — dossier 280(69).

⁶⁸ It should be noted that, whereas the State of Vietnam acceded to the Geneva Conventions of 1949 on 14 November 1953, no declaration with regard to application of the four Conventions was made by the authorities of the DRV.

On 25 March 1954 the French Government protested to the ICRC over this violation of the laws of war. In its reply of 27 March 1954, the ICRC drew attention to the terms of Article 36 of the First Geneva Convention of 1949, under which the protection of medical aircraft is subject to agreement between the belligerents on the schedules, altitudes and itineraries used. In addition, the ICRC declared its readiness to convey to the enemy any truce proposals to facilitate the coordinated evacuation of the wounded from the fortified garrison.⁶⁹ On that same day and after consultation with the ICRC delegate, General Navarre appealed to General Giap to allow the wounded to be airlifted from the garrison, but without success. On 28 April 1954, the ICRC in Geneva renewed the appeal that had been addressed to the two belligerents on 9 April *"so that those persons legitimately placed under the red cross sign may be protected"* and *"so that all measures can be taken on both sides to allow for the evacuation of the wounded from the front and to guarantee full respect for medical establishments and means of transport bearing the Red Cross emblem..."*⁷⁰ This appeal furthermore suggested the creation of medical zones for the hospitalization of the wounded and the sick under the terms of the Geneva Conventions. It remained a dead letter and no practical action was possible in the field. On three occasions André Durand requested permission to visit Dien Bien Phu, but was refused access *"for reasons of security."*⁷¹

After the fall of Dien Bien Phu on 7 May 1954, direct talks on the evacuation of the wounded were started between the parties early that same month at the Geneva Conference. The seriously injured were exchanged without any intermediary, though André Durand was able to be present in Laos when 850 wounded were repatriated from Dien Bien Phu in June. On 16 and 17 June 1954 he was also authorized to accompany a convoy carrying wounded Democratic Republic of Vietnam troops released by the French as far as the hand-over point outside Hanoi. That was the first unofficial meeting since October 1951 between an ICRC delegate and representatives of the Democratic Republic of Vietnam High Command and this paved the way for further contacts during subsequent

⁶⁹ Document D. 346 of 4.5.54. Situation of the wounded in the Vietnam conflict, 5 pages.

⁷⁰ Appeal to the belligerents in Indochina. Press release No. 508 of 28.4.54. ICRC Archives — dossier 200(69). *RICR*, No. 425, May 1954, p. 337.

⁷¹ Report by A. Durand on the situation in Indochina (1953-1955) submitted at the plenary meeting of 3.3.55, 16 pages. ICRC Archives — dossier 200(69).

exchanges.⁷² Concerned about the plight of the prisoners taken at Dien Bien Phu — some 10,000 — and wishing to communicate to the families the names of the troops captured, the ICRC approached the delegation of the Democratic Republic of Vietnam at the Geneva Conference.⁷³ In a letter to Pham Van Dong, Minister of Foreign Affairs, the ICRC offered its services to pass on lists of names of all prisoners, send food parcels to the prisoners held on both sides and transport pharmaceutical relief supplies for troops and civilians affected by the fighting.⁷⁴

The ceasefire agreement was reached on 20 July 1954. It provided for the release of prisoners within 30 days. With repatriation being supervised by an International Commission comprising representatives of Canada, Poland and of India — which chaired the group — the ICRC, which had not been given lists of prisoners, did not take part in the operation. From then on it could concentrate on the problem of the refugees resulting from the agreement of 20 July 1954.

Activities for refugees

Far from terminating ICRC activity in Indochina, the peace accords presented the institution with new tasks, leading it to increase its representation in the two Vietnamese zones by stationing Jacques de Reynier as delegate to the north of the 17th parallel, while André Durand, who continued his work in the southern zone and in Laos and Cambodia, was backed up by a new delegate, Nicolas Burckhardt, as of September 1954.

As the Geneva agreements gave the inhabitants of Vietnam the freedom to choose the zone in which they wished to live, some 800,000 persons flocked to the Tonkin assembly point for evacuation to the south, while there was virtually no movement from south to north. The massive exodus posed major problems for the government and for the Red Cross

⁷² *Ibid.*

RICR, No. 427, July 1954, p. 530.

Report on operations to evacuate the wounded from the ranks of the French expeditionary force at Dien Bien Phu released by the High Command of the Vietnamese People's Army between 13 and 26 May 1954. ICRC Archives — dossier 210(69) Note No. 352 of 29.6.54 from A. Durand. ICRC Archives — dossier 210(69).

⁷³ Minutes of the meeting of 12.5.54 between ICRC representatives and the DRV delegation to the Geneva Conference. ICRC Archives — dossier 200(69).

⁷⁴ Letter of 3.6.54 from P. Ruegger to Pham Van Dong. ICRC Archives — dossier 200(69).

of the State of Vietnam which, after consulting André Durand, requested the ICRC and the League of Red Cross Societies for help in organizing relief. A first appeal was promptly launched by the ICRC on 27 August 1954, followed by that of the League on 31 August. Both messages called on the generosity of National Societies and met with a favourable response. Co-operation was also forthcoming from other aid organizations such as the United States Foreign Operations Agency, which had been active in the country for some time, the International Relief Committee and UNICEF.⁷⁵

The ICRC and the League agreed that in the southern zone the League's delegate, Dr. Thurler, would be responsible for receiving and co-ordinating relief supplies provided by National Societies and distributed by the Red Cross of the Republic of Vietnam,⁷⁶ founded in 1951, while ICRC delegates were entrusted with the distribution of supplies from the various aid organizations. The ICRC representatives also visited refugees in camps and in dispensaries where the said Red Cross was caring for them.⁷⁷ Jean de Preux, who succeeded André Durand in May 1955, worked in coordination with the authorities, charitable organizations and UNICEF to assist refugees from the south and centre of the country; he continued to supervise the use of emergency supplies sent from the USA and stored in Saigon on behalf of refugee women and children.⁷⁸

Activities for civilians

In the northern zone, which was more severely affected by the fighting, the ICRC offered its assistance to the government of the Democratic Republic of Vietnam with a view to setting up a programme of medical aid for civilians hard hit by the events. A delegate, Dr. Aguet, was dispatched to make an on-the-spot assessment of the situation. But the authorities announced that they would request medical assistance once they needed it.⁷⁹ The Red Cross organization of the Democratic Republic

⁷⁵ Report by A. Durand on the situation in Indochina (1953-1955) submitted to the plenary meeting of 3.3.55, 16 pages. ICRC Archives — dossier 200(69).

Report of Activities 1954, pp. 39-41.

RICR, No. 429, September 1954, p. 703.

⁷⁶ At the time this Society, like the DRV Red Cross in the north, did not fulfil all conditions for recognition as a full member of the International Red Cross.

⁷⁷ *RICR*, No. 431, November 1954, p. 877. *ICRC Annual Report for 1954*, pp. 39-41.

⁷⁸ *ICRC Annual Report 1955*, pp. 18-20.

⁷⁹ Note No. 16 of 25.8.54 from J.P. Maunoir. ICRC Archives — dossier 200(69).

of Vietnam did in fact agree to take delivery of an ICRC donation of a tonne of medicines from Jacques Reynier in May 1955. The negotiations continued throughout the year, first with Jacques de Reynier, then with André Durand who took over from him in July, for the delivery to the Red Cross Society of relief supplies entrusted to the ICRC. By the end of 1956 when the ICRC's mission in the Democratic Republic of Vietnam ended, over eight tonnes of medical supplies had been delivered to the DRV Red Cross during the preceding two years.

Conclusion

From the start of the conflict the ICRC tried by every possible means to take up contact either with the Red Cross or with the Democratic Republic of Vietnam authorities. Of its many initiatives spanning more than seven years, the ICRC recalls such concrete achievements as the visit to a camp for French civilians, some of whom were freed in 1947, the exchange of correspondence between the fronts, the delivery of food and medicines, the broadcasting of family messages and, as of August 1953, the sending of mail to French prisoners via the embassy of the Democratic Republic of Vietnam in Peking.

But the ICRC did not obtain access to camps for prisoners held by the Vietnamese, nor was it allowed to monitor the distribution of aid which it handed over to the Red Cross of the Democratic Republic of Vietnam.

The fact that the ICRC was perceived as a western player too close to the French authorities, unable to maintain sufficient detachment from them and highly dependent upon them in logistical terms, was not unrelated to this failure. Its credibility as a neutral and independent intermediary was thereby seriously undermined. Despite numerous attempts to contact representatives of the Democratic Republic of Vietnam, it sometimes displayed restraint for fear of offending the French authorities. Parallel initiatives by those authorities and by the French Red Cross, which maintained direct contacts with the Democratic Republic of Vietnam, were not without implications for the way the latter perceived the role and activities of the ICRC. In addition, the Cold War context which pitted the Communist bloc against the free world and the ramifications of the Korean War, in which the ICRC was accused of serving western interests, also had their repercussions.

On balance, the ICRC's humanitarian action was less limited on the French side. Indeed, by establishing a delegation in Saigon accredited to

the French authorities, the ICRC from the very beginning signalled its will not to restrict its intervention merely to visiting hostages taken by the Viet Minh forces as the said authorities were demanding. Despite certain difficulties that resulted mainly from the lack of reciprocity on the part of the Democratic Republic of Vietnam, it gradually extended its sphere of activity to the protection of Vietnamese prisoners in French captivity and, as of 1952, contributed significantly to improving their conditions of detention.

It is no less true, however, that being represented *vis-à-vis* only one belligerent considerably impeded the ICRC's activities in aid of all victims of the conflict. Yet ICRC action cannot be truly effective unless it is carried out on both sides simultaneously and in full independence.

The history of the ICRC in the Vietnam War or Second Indochina War, which was similar to the First Indochina War in ideological, political and military terms, was also to be the story of its endeavours at the diplomatic level to promote implementation of the Geneva Conventions, to carry out its activities throughout the territories of the parties in conflict and to do so on behalf of all victims. Though present and active in Saigon, the ICRC was not to be authorized to set up a representation in Hanoi.

The promotion of peace and humanity in the twenty-first century

What role for the Red Cross and the Red Crescent?

by Jacques Moreillon

Dealing with a question of this breadth may seem an impossible task. Furthermore, it would certainly not be intelligent to claim to have found the solution to the problem of peace and humanity. The first mark of intelligence is precisely knowing one's limits, and it is clear that we can only try to guess at potential answers to such a vast question; to do this we would need to look at the past so as better to understand the future.

A matter of definition

We in the International Red Cross and Red Crescent Movement admittedly enjoy an advantage in dealing with issues such as *peace* and *humanity*, which is shared by no other world movement or organization. Indeed, for these two concepts we have *definitions* that, moreover, did not result from thoughts hastily committed to paper. They are the product of decades of shared experience within our Movement and of arduous negotiations on certain issues, mainly those pertaining to peace, which led to a consensus of the entire Movement as well as among the States party to the Geneva Conventions (through their acceptance of the Statutes of the Movement by the International Conference of the Red Cross).

Therefore, an examination of the role of our Movement in promoting peace and humanity calls first of all for a look at the origin of these terms within it.

Definitions of the words “humanity” and “peace” are given in the various texts common to our Movement. It is an important fact that today (though only since 1986) they appear in the Preamble to the Statutes of the Movement.¹ It was not until 1961 that the principle of humanity made its formal appearance in a resolution of the Council of Delegates meeting in Prague. It then became the first of the seven Fundamental Principles adopted unanimously by the International Conference of the Red Cross in Vienna in 1965. That was indeed a long interval: when we consider that it was the 10th International Conference in 1921 that signalled the start of recognition of Red Cross activities to promote peace with its solemn appeal “to all peoples to combat the spirit of war which is still rife throughout the world”. (Note the word “still”..., coming at the end of what was to be “the war to end all wars”).

The definition of peace adopted by our Movement appears in the Preamble to the *Programme of Action of the Red Cross as a Factor of Peace* adopted by the World Red Cross Conference on Peace held in June 1975 in Belgrade. This programme (and hence the definition of peace) was ratified in turn by the Board of Governors of the League of Red Cross Societies² and by the Council of Delegates, both meeting in Geneva in October 1975. It is highly significant that in 1986 we incorporated the concepts of peace and humanity in the *Preamble to the Statutes of the Movement*, because this Preamble is as binding on governments as the Statutes also adopted by them. That means that, through our Statutes, the States party to the Geneva Conventions have also adopted a definition of peace ... something which the United Nations has not yet succeeded in doing, even though its primordial role is the maintenance of peace!

It should be underscored that this Preamble mentions four concepts. There again, in looking towards the future, three of them are of capital importance. The first is the Movement’s *mission*. The second concerns the seven *Fundamental Principles*. The third refers to the *mottos* of the Federation and of the ICRC and the fourth is the *definition of peace*.

I shall not dwell on the subject of the Movement’s mottos *Inter arma caritas* and *Per humanitatem ad pacem*, although they are the quintes-

¹ The name “International Red Cross and Red Crescent Movement” was adopted in 1986. Until then the designation “International Red Cross” had been used. The notion of Movement as such came into being in 1986 and was incorporated in the new Statutes.

² The League of Red Cross Societies changed its name in November 1991 and is now the International Federation of Red Cross and Red Crescent Societies (hereinafter the Federation).

sence of what constitutes the Red Cross. But if we wish to make projections into the future, we will need to find answers to the following questions. Should we keep the same mission for our Movement? Should we cling to the same Fundamental Principles? What will be our vision of peace? And one cannot address the principles, in particular that of humanity, and peace without examining the Movement's mission, for ultimately, the principle of humanity and the definition of peace are but the means to an end. That end is our mission, in other words, the *raison d'être* of the Red Cross.

The Movement's mission

Fifteen years ago the Red Cross conducted a reappraisal of its role which became known as the *Tansley Report*³ and which proposed a new basic role for the Movement. I am recalling this because "from tradition, let us keep the flame rather than the ashes" or, to put it more prosaically, we must develop without trying to reinvent the wheel. Admittedly, times have changed, but experience should not be "a lamp that lights up only the ground we have covered": trying to rethink the future while ignoring the past would be a lack of intelligence, seriousness and modesty. Let us therefore draw on the lessons, *inter alia*, of the "Tansley experiment".

What was Tansley's central proposal? He wanted the Movement to assume one single basic role — the provision of emergency help on an unconditional and impartial basis, whenever and wherever human needs for protection and assistance exist because of a natural disaster or conflict. He said that the essential feature of the Red Cross was to act in cases of emergency, whether they occurred in wartime or in times of peace. The Movement did not accept his proposal but decided to retain the full range of social work done by the Red Cross, which constituted a large part of its activities, especially in what was then the Soviet Union and in many countries of Central and Eastern Europe. In short, the Movement did not intend to concern itself exclusively with emergency situations. Therefore, the definition of the Movement's mission, as finally adopted in Bucharest in 1977 following discussion of the Tansley Report, *was derived from its principle of humanity*. In the Preamble to the Statutes of the Movement,

³ Donald Tansley, *Final Report. An Agenda for Red Cross*, Joint Commission for a Re-evaluation of the Role of the Red Cross, Geneva, 1975, 129 pp.

that definition is given as follows: “*to prevent and alleviate human suffering wherever it may be found, to protect life and health and ensure respect for the human being, in particular in times of armed conflict and other emergencies, to work for the prevention of disease and for the promotion of health and social welfare, to encourage voluntary service and a constant readiness to give help by the members of the Movement and a universal sense of solidarity towards all those in need of its protection and assistance*”. This definition encompasses three concepts: *emergency situations* (in peacetime and wartime), *social work* by the Red Cross and the Red Crescent (i.e., day-to-day and long-term activities) and the *preparedness* so dear to Henry Dunant, which makes it possible to stand in readiness for any emergency. In short, the purpose is *to prevent and alleviate suffering and to preserve human dignity*.

For my part, while remaining open to dialogue, I can, however, hardly conceive of what else could be proposed as a mission for the Red Cross and, in the following pages my premise will be that it will remain the same for the foreseeable future, in other words, into the twenty-first century. But knowing what *vision* we should have of how to accomplish our mission, that is quite a different matter. Faced with a growing politicization of humanitarian work, especially by the various States and the UN, should we not accentuate the purely humanitarian dimension — or even the humanitarian integrity — of our mission? For although the politicization of humanitarian work offers short-term advantages, in the long term it can only be detrimental to it. Our Movement, in its universality, must aspire to be *the main autonomous force for humanitarian action* throughout the world. In a world whose former political bipolarity will be replaced by a new polarity, that of humanitarian concerns on the one hand and political interests on the other, is it not our vocation to become the main “pole of humanitarian action”?

I have often been asked to try to state the essence of the Red Cross. My own definition is that it is there “to help the helpless”. If we consider all those that the National Societies, the Federation, the ICRC, each in their own way are trying to help and to protect, the common denominator is that they are helpless and without protection. It is the prisoner who has been captured by the enemy, whether he is of the same nationality or not; it is the old woman on the sixth floor with no lift who can no longer come down to do her shopping; it is the victim of an earthquake, of flooding or famine whose government is no longer in a position to help. In an organized society, everyone has natural protection, that of the State or of his or her family (and here I am of course talking only about material protection, as divine protection is a realm in which the Red Cross — a

non-religious Movement — does not voice any opinion) and the Movement's mission is quite simply to help those who are no longer in a position to receive such assistance and protection. We therefore act as a substitute for the authorities, governments and civil society. This is why, if I had to answer the question as to whether our mission should remain the same in the coming century, I would be inclined to say yes. "Helping the helpless" has been the fundamental purpose of the Red Cross and Red Crescent Movement from the beginning. Identifying, recognizing and helping the weak should and probably will remain our principal mission in the future, if only on account of the scope of the concept of "helpless" and the dimensions of the task of bringing them assistance and protection.

If this is the case, *everything we do must henceforth be centred around our mission*, even more than in the past. The issues of structure, system, style, staffing and organization must all relate to our mission and must be interconnected, with that mission as the very core. To my mind, one of the mistakes too often made (not only within the Red Cross but also in some companies and other organizations) is the tendency to think in terms of structure and not of mission. Yet structure must be adapted to mission and not the other way round. As the Movement ponders its future, the first question it should ask itself is: "Do we wish to, or should we, maintain or modify our mission?" If we choose to maintain it (and possibly accentuate its strictly humanitarian, independent nature), what are the challenges (old or new) facing us and how can we make our Movement function better and more efficiently? How can we meet these challenges either within the framework of existing structures (even if it means changing the manner of working within these same structures) and/or by modifying these structures? Our Movement has many generous and imaginative thinkers and this is a major asset. But it is important to recall the advice given to handymen: "if it ain't broken ... don't fix it". I think that before trying to devise another machine, it would seem important to try to get the one we have to work the way it should. If that fails, then we can think of designing another machine ... but only if we are really sure that it will work better. *The Movement's mission should be and remain the crux of all such considerations.*

Values and service

I will make yet another observation about our mission: our Movement is inspired by values and is devoted to serving our fellow man. Helping the weak, if we think about it, combines a choice of values and a sense

of service. The humanitarian response was born of compassion towards the sufferings of others. But compassion alone is not enough; it must be followed by action, for we are a Movement devoted to *action* and the thinking behind it is only a means to that end.

When I used to lecture on the Red Cross, I very often compared the way it works (especially in humanitarian law) with that of a four-speed engine. Those four speeds were: *compassion, action, reflection and codification*.

When Henry Dunant arrived at the battlefield in Solferino, his first sentiment was one of *compassion* (*cum-patire* in Latin or *sym-pathein* in Greek, that is “to suffer with”). If, at the heart of whatever we are doing within the Red Cross, we do not feel this first impulse of compassion towards the suffering of others, we have no future. When I think of the future, I am convinced that if we wish to continue helping the weak in the same spirit, it is absolutely imperative for the first impulse of the Red Cross to come from the heart. Sir Robert Baden-Powell, speaking about Scouting which he had founded said: “First of all I had an idea; then it became an ideal; the ideal evolved into an organization; and — if one is not careful — the organization could kill the ideal”. This great danger — of becoming merely an organization rather than remaining a Movement — is also hanging over the Red Cross and the Red Crescent, both nationally and internationally, and we cannot allow ourselves to forget the very essence of our *raison d'être*: a response that springs from the heart.

The second speed in our engine is *action*. During the battle of Solferino, Henry Dunant was not writing his book, he was caring for the wounded. He was doing so because that was the immediate emergency and, faced with the pain of the helpless, we can only justify our existence by action. And in a world that has become very competitive, this action assumes its full value if we are better prepared than anyone else to carry it out.

Next comes the third speed of the engine: *reflection*. If action is to be repeated or to be lasting, it needs to be codified and for that we need a time of reflection. Is it not remarkable that it took our Movement over a century to adopt its Fundamental Principles in 1965? The ICRC itself adopted its first Statutes only in 1915, after over forty years of existence. It took ten years of tough negotiations to work out the first Statutes of the International Red Cross in 1928 which — finally — amounted to “a peace treaty” between the League and the ICRC, under which the coordination of relief actions by National Societies remained assigned to the ICRC whenever a specifically neutral intermediary was needed, whereas

the Federation was given the task of developing National Societies and coordinating their peacetime activities. It also took us ten years to agree on a definition of peace. But those years of dialogue and negotiations were not wasted. They made it possible for a general consensus to be reached, thanks to which this definition of peace will be protected against the ravages of time. Moreover, in each generation, the Movement feels the need to redefine itself and it engages in some introspection. This is undoubtedly one necessary way in which the new generation can adopt the Movement, identify with it and make it theirs. Seen from this angle, what is important is not only this feeling of identification with it but also (and perhaps more so) the *process* by which it is engendered.

Reflection therefore, the third speed of our engine, leads to the fourth, *codification*. This also tends to favour action by guaranteeing the continuity of certain essential factors. It has been said of humanitarian law that, like the military, it is always one war late. I do not know if that is true of military but it certainly is of humanitarian law, for it proscribes the horrors that one has not been able to prevent in past wars. Henry Dunant saw the wounded abandoned on the battlefield of Solferino; that led to the original Geneva Convention on the wounded and the sick on the battlefield. The ICRC visited prisoners of war during the First World War, when they were without any form of protection. That paved the way for the Convention on the protection of prisoners of war. As for civilians, they were subject to bombardment and internment in concentration camps during the Second World War. So it was not until 1949 that the Fourth Geneva Convention protecting civilian internees was adopted, eventually followed in 1977 by the Additional Protocols prohibiting attacks on civilian populations. Today we are trying to prohibit the use of mines after being unable to prevent them being scattered throughout Cambodia, Afghanistan and elsewhere. In other words, this procedure whereby codification derives from tragedies that could not be prevented in the past is characteristic of the Red Cross, which in this way draws on its own experience to broaden its scope. The same applies to the process for the elaboration of the Statutes of the Movement and even of the agreements between the Federation and the ICRC.

And what of peace?

It is noteworthy that it was within the framework of the principle of humanity that peace was mentioned for the first time in an official Red Cross document. This is therefore not an isolated notion. Indeed, the text

of the principle of humanity concludes thus: "... It promotes mutual understanding, friendship, cooperation and lasting peace amongst all peoples". The word "lasting" is essential and is repeated in the definition of peace contained in the Statutes, which I should like to quote and comment upon in a forward-looking perspective. The International Red Cross and Red Crescent Conference declared that: *"by its humanitarian work and the dissemination of its ideals, the Movement promotes a lasting peace, which is not simply the absence of war, but is a dynamic process of co-operation among all States and peoples; co-operation founded on respect for freedom, independence, national sovereignty, equality, human rights, as well as a fair and equitable distribution of resources to meet the needs of peoples"*.

Here I should like to pay tribute — somewhat tragic in a way but nonetheless sincere — to a National Red Cross Society that was then the Red Cross of Yugoslavia. It was that Society that really launched the whole process leading to the adoption by the entire Red Cross and Red Crescent Movement not only of the definition of peace, but also of a Programme of Action and Fundamental Guidelines for the Red Cross and Peace.⁴ I am convinced that our friends in the Red Cross of Yugoslavia sensed at the time that it was important to promote peace through the Movement, as some of them had a foreboding of the impending tragedy and they wished to prevent war in their country. It is both encouraging and distressing to think that it was there that our definition of peace came into being, in a country where humanity has undergone one of its most severe setbacks in recent years for its inability to maintain peace. Yet, I consider it important to recall that Yugoslavia's proposal was tabled at the height of the Cold War at a special conference of what was then the League, held in 1975 in Belgrade, and that the ICRC joined in the process only subsequently.

In this connection, it is interesting to note that an internal debate then arose within the ICRC (should the ICRC deal with peace or not?) as peace was rather considered at the time to be the Trojan horse of the Soviet empire, while human rights were seen as that of the United States. The ICRC for its part, though an apostle of peace, feared that if it decided to follow this path, it would become bogged down in political issues. Voices

⁴ "Fundamental Guidelines for the Contribution of the Red Cross and Red Crescent Movement to a True Peace in the World" were adopted by the Second World Red Cross and Red Crescent Conference on Peace (Aaland/Stockholm, September 1984).

were then raised within the ICRC, including mine, to say that the Committee could absolutely not remain on the sidelines: peace was a matter not only for the League but one of concern to the entire Movement. These views prevailed and the ICRC joined in the peace dialogue. As we have seen, the negotiations lasted a good ten years during a very difficult period. We did however succeed, through dialogue and through concessions on all sides, in arriving at what is today, at least in its conception, a unifying force within the Movement based on a general consensus and having the unanimous approval of the International Conference of the Red Cross — certainly no mean achievement! As I have said, it is today the only universally accepted definition of peace which an organization or a movement has managed to adopt. The United Nations has failed in this: it conducted lengthy debates before agreeing on a definition of aggression, but it never arrived at a definition of peace. (It should be noted that thanks to this achievement, negotiations on the new Statutes of the Movement lasted “only” five years, from 1981 to 1986, as we were able to concentrate on issues of organization, structure and operation ... precisely the issues which are being discussed anew today!)

It may therefore be worth dwelling somewhat on the process of consensus-building by which it was possible to arrive at a definition of peace and at two programmes of action for promoting it. Will this definition be maintained and will it remain valid? In this regard I would like to refer back to some ideas that I have already underlined in this document. The first key point is that the definition of peace in the Preamble to the Statutes of the Movement begins by stating that *by its humanitarian work and the dissemination of its ideals, the Movement promotes a lasting peace*”. That was one of the main points of negotiation. Should peace be a *direct* or *indirect* objective of the Movement? Should we strive to promote lasting peace directly or rather through our humanitarian work and the propagation of our ideals? It was finally decided that we could best make our unique contribution to peace through our actions and by spreading knowledge of our ideals (dissemination not only of humanitarian law but also of the Fundamental Principles of the Red Cross), rather than by trying to bring it about directly, at the risk of failing to fulfil our essential mission.

In fact when we speak of the contribution of the Red Cross to peace, it is not so much a matter of doing something else as of doing the same thing in a different spirit. On 10 May 1994, I represented the Red Cross at the inauguration of President Nelson Mandela whom I had visited several times between 1974 and 1976 when he was a prisoner on Robben Island. In 1992 I had the privilege of having a private conversation with

him for two hours in his hotel room in Oslo, during which we were able to examine in retrospect what the ICRC visits meant to him and his fellow prisoners and the lessons they had drawn from them. One thing struck me then: in Oslo, Mandela told me that the most important thing the ICRC had done, in terms of long-term implications, had been to obtain for the prisoners the right of access to news. Indeed, as they were being held in complete isolation and knew nothing of what was going on in the world, they risked remaining immobilized in the mentality of the Rivonia trial of 1964.⁵ Had this "mental freeze" been maintained, they would have been incapable of negotiating as they did when released, as their thinking would have continued to be too strongly influenced by the past. The ICRC, by persisting in its request and finally managing to obtain access to news for political prisoners, thus played a key role in the restoration of social peace in South Africa. It took ten years of visits and representations before my successor in the post of ICRC Delegate-General for Africa was able, in 1980, to obtain access to news for the prisoners (moreover we were not alone: the activities of Helen Suzman and the appointment of a new Minister of Correctional Services also played a major part). That is a perfect example of what we mean by the *indirect contribution* of the Red Cross to peace: it is a strictly humanitarian action, but which has favourable and lasting political implications.

Another example: during the Iran-Iraq war, tens or even hundreds of thousands of soldiers were killed. Whereas the Red Cross had knowledge of over 100,000 Iraqi and Iranian prisoners of war, mainly by registering them during visits to prisoner-of-war camps and from correspondence in the form of Red Cross messages between detainees and their families, it was never possible to ascertain the names of soldiers killed in battle. In other words, each morning hundreds of thousands of families woke up wondering: "Is he alive, is he dead?". As families are so large in that part of the world, there were millions of relatives who wondered each morning: "Is he alive, is he dead?" Can we imagine the degree of tension and hatred engendered in a country by worry about persons whose whereabouts remained unknown, and the repercussions of that anxiety on the day-to-day life of millions of inhabitants? For the fact is that people do accept death, but they cannot accept not knowing. Even supposing that among the missing we do manage to find out which people are dead and which

⁵ The Rivonia trial opened on 29 October 1963 and ended on 12 June 1964 with life sentences for six South Africans including Nelson Mandela.

are still alive, can we imagine the extent to which this knowledge can ease the agony of uncertainty?

That was how we came to understand that the Red Cross is not a pacifist but a pacifying movement. Note the difference between a pacifist (for which peace is paramount) and a pacifying movement: by our humanitarian approach we contribute indirectly to diminishing hatred, thus helping to create a situation less fraught with tension. We will not bring about peace, let us not delude ourselves, but we do help foster a more peaceful climate.

At the same time we have given peace a definition containing elements that we can call "political notions". Why did we do so? That was also a part of the compromise, for there were those who said: if we are to contribute indirectly to peace we cannot afford to misjudge the component elements of that peace. For peace reigned in Nazi Germany of 1937. The peace that reigns completely unperturbed is the peace of cemeteries. Hence the crucial notion of *lasting* peace. The expression "*lasting peace*" is contained in the principle of humanity: "lasting peace amongst all peoples", sometimes called *true peace*. The expression "lasting peace" affirms that there cannot be true peace without justice, in the same way that true justice cannot exist without peace. Some would reply: "Justice is not the problem of the Red Cross!". I believe that the Red Cross must be aware of injustice, as we cannot be ignorant of the world around us, claiming to possess the elements of peace without taking an interest in the reasons for its absence, once we agree that peace is not simply the absence of war. That is also why we say that peace is a *dynamic process*. And that, to my mind, provides another answer to the question of our contribution to peace in the coming century. We should not consider it as a *status quo*: it is never static.

The world is in constant metamorphosis and peace is therefore a "dynamic process". A dynamic process of what? Of *cooperation*. Among whom? Among *States* and *peoples*. We cannot overlook States, because without them there is no international law. But neither can we deal with States alone. The Charter of the United Nations reads: "We the peoples of the United Nations" and not "We the States" or "The States members of the United Nations". Therefore, the concept of cooperation strikes a balance between States and peoples.

On what should this cooperation be based? *On respect for freedom, independence, national sovereignty, equality and human rights, as well as a fair and equitable distribution of resources to meet the needs of peoples*. To my mind, there is an element missing from this text, but we

preferred to leave it as such, rather than reexamine it with the risk of extending such reexamination to other points. The missing element is that of *respect for international law*. The problem with negotiating such texts is that we sometimes have to aim for the optimum rather than the maximum, for trying to achieve perfection could set us back; it was therefore considered better to leave untouched a definition that had taken so much negotiation, and not venture to perfect it.

This notion (the optimum versus the maximum) was also at work in the process leading to the adoption of the Movement's Statutes. We were aware of certain shortcomings, but trying to correct them entailed the risk of reopening an even more extensive debate that might have jeopardized the consensus reached on more important points. This is often the problem posed by the revision of statutes: you know where you begin but never where you will end up. In fact no-one can guarantee the final outcome, above all if it calls for the backing of governments and for a two-thirds majority of votes. Thus, I do not believe that some of the people, in 1981, who initiated the revision of the Movement's Statutes ended up in 1986 exactly where they had anticipated five years earlier. But such was the price of consensus.

Everything can be discussed, but one thing is certain: to table these questions at the International Conference, in the presence of the various States, without having first made sure that we have a consensus — if possible a genuine consensus — within the Movement would be mad (M.A.D. = Mutually Assured Destruction¹!). Experience has shown us that to obtain such consensus nothing can replace true dialogue, that the necessary time must be taken for it, that our mission must be central to it and that the most effective means must be sought of carrying out that mission.

To revert to the question of peace, what is the essential message for the future? The truth is that we cannot remain indifferent to the "political" components of peace, and that is why we have defined them. At the same time, however, our contribution to peace is indirect and unique to the Red Cross.

Facing the challenges of the future

In 1981 we in the ICRC tried to reflect on the challenges that lay ahead and how they would affect our future. We concluded that the two main challenges to be met by the year 2000 would be, first, learning to live with chaos, then coping with the radicalization of ideologies.

Now, thirteen years later, as we look again at these challenges, I believe that the first challenge is still before us. Compared with the age of the gold exchange standard for example, or of the bipolar world dominated by the two superpowers, the present day and age is characterized by chaos that makes it unpredictable. It is very difficult to come to grips with chaos using fixed rules and this is one of the problems of humanitarian law. In the present situation, the principles will be the compass that shows us the north, so to speak. Here again, the principle of humanity comes into play to some extent, being as I have said the essence of the Red Cross. This principle, that is to say compassion for victims, may be considered as the driving force of the Movement, the four-speed engine which I have already mentioned. Without an engine, a car remains stationary.

But in addition to an engine, it also needs a steering wheel to guide it to its destination. The steering wheel is the principle of *impartiality* which advocates active assistance and protection, given without discrimination and in proportion to the needs of victims. When two wounded soldiers are taken to the surgeon's tent, naked, anaesthetized and ready for operation, the surgeon cannot tell friend from enemy. He first of all attends with complete impartiality to the one who is more critically wounded and hence in greatest need, be he friend or foe. It is this principle of impartiality that gives us direction and leads us to the victims. It is our steering wheel.

Next comes the principle of *neutrality*, very often misunderstood and resented, which is at times prejudicial to recruitment, especially of the young as it allows no scope for certain commitments. But let us not forget what it says: of the seven Fundamental Principles of the Red Cross it is the only one that states its own objective. It reads: "*In order to continue to enjoy the confidence of all, the Movement may not take sides in hostilities or engage at any time in controversies of a political, racial, religious or ideological nature*". The automobile which we used as our metaphor needs not only an engine and a steering wheel but also brakes, for otherwise it would fail to negotiate the next turn. The engine is humanity, the steering wheel impartiality and the brakes the neutrality that makes it possible to follow a strictly humanitarian route. In times of chaos, when law is and will continue to be difficult to observe, it is the principles that will continue to guide us.

Let us turn to the *radicalization of ideologies*. The fact is that, in 1981, we were more concerned over such factions as Pol Pot and Shining Path, which are parties of exclusion. It seems to me that we were then somewhat

less mindful than now of the phenomenon of extreme nationalism. But it is essentially the same concept, whereby the individual is treated in accordance with the passport he bears, his ethnic group, religion or his political persuasion. The result is that today many groups are facing very serious problems, especially in the countries of the former Soviet Union and of Eastern and Central Europe. The way the Red Cross should respond to this problem is no simple matter: it must abide by the Fundamental Principles, which in turn depends a lot on people. A Red Cross or Red Crescent Society is as good as its leaders. In all countries there are people who command universal respect and who display independence and courage, and it is with them that we should build the Red Cross. I know that it is easy to preach courage. But any of us could find ourselves facing physical threat or another situation of risk. The question is always the same: should we pull back? Should we give in so as to be able to continue our work or do we wish to remain independent at the risk of finding ourselves immobilized? Our room for manoeuvre is limited and our role in both the Federation and the ICRC is that of helping National Societies to maintain their independence, which is a *sine qua non* for remaining an authentic Red Cross, an authentic Red Crescent.

Conclusion

I have been trying, with some caution, to address the issue of the Movement's future role in the promotion of peace and humanity. I believe that, in essence, our mission should remain that of helping the helpless. The principle of humanity must remain the driving force of our Movement, while impartiality, neutrality and the other principles will remain its guiding principles. Our contribution to peace must remain indirect to be effective, but must be based on an overall awareness of what constitutes peace.

Nonetheless, I still believe that, within those parameters, the Red Cross and Red Crescent Movement should look at the problems around it to see whether it could do more, do something else or act differently. I fear that today our Movement might be overly concerned with structure and not enough with its mission. Yet, for it to concentrate on its structure at the expense of its mission would be putting the cart before the horse. I believe that today we must reflect, for example, on the effects of the world imbalance; the gap between North and South; economic stagnation and its ramifications for the vulnerable populations in the North; the outcome of decades of development (the 1980s have been described as

lost years for the development of the South); the growing inequality between North and South; the direct linkage between environment and development; the effects of science on society; food and nutrition; what has been called “the peace dividend” (what to do with the savings believed to be generated by the end of the Cold War); the urban crisis; the problem of drugs and related issues such as AIDS.

Such are the problems to which the Red Cross can and must give even a partial response. Admittedly, we cannot do everything, but when I look to the future, I would like to put the problems that will confront tomorrow’s societies through a scanner so as to define, within the framework I have indicated (i.e., our mission and principles), what can and must be the response of the Red Cross and the Red Crescent to those problems. And I would place special emphasis on young people (a fairly natural reaction for one at the helm of a Movement comprising some 25 million young people throughout the world). It is a commonplace to say that the young are the adults of tomorrow. But at all events, I think that within the Red Cross and the Red Crescent we should be deeply concerned with the problems of youth, with illiteracy and lack of education, social alienation, spiritual values and health. It is symptomatic of our day and age that young people are finding ever fewer opportunities for education (and by education I mean the moulding of character and not just teaching). Schools are teaching more and more while educating less and less. Too often they are establishments engaged in imparting knowledge, not in the moulding of character. I believe that the Red Cross, because it represents values, has a role to play if it considers its contribution to youth as a contribution to the future.

Furthermore, there is the full range of new problems more directly related to the work of the Red Cross: the proliferation of “humanitarian” NGOs or NGOs purporting to be such; the involvement of States (individually or in groups) in “humanitarian” or pseudo-humanitarian activities; the famous “right of intervention”; the appearance of armed gangs spawned by the collapse of responsible structures of government; the impoverishment of the South and its implications for the National Societies; lack of interest in their development, in favour of operations that hit the headlines; the influence of a press that incites governments to change — not always for the better — their priorities and their objectives in situations of conflict.

To rise to these challenges, there must be peace within our Movement. Some find the Movement complicated and would like to simplify it. But it was born of life and life is not always simple. In fact the most efficient

biological form is also the most complex: man. Man's organs are structured according to their function. The same goes for the devices he constructs. A submarine is not built like a hot-air balloon because it must withstand the immense pressure of the water (as the ICRC must be able to stand up to the political pressures of conflicts), while the hot-air balloon must be lighter than air even though made up of elements that are heavier than air.

It is claimed that the camel is a horse designed by a committee! It is also said that the Creator wanted to make a creature that knows how to fly, walk, move above water as well as underwater. So he created the duck which does indeed use these four means of locomotion...but none of them well! For my part, I prefer a fish that knows how to swim and a bird that knows how to fly.

Keeping peace within the Movement is tantamount to executing our mission properly, fulfilling the purpose for which we are destined by our structure. The task is so great and the means so limited that the foremost duty of each and everyone, wherever they may be, is to strive loyally to do whatever they are best qualified for. Harmony in nature and in life springs from the balance between different constituent parts. Let us be harmonious in this and we shall have a spirit of peace within our Movement, the indispensable basis for trying to bring peace *outside* the Movement... today and in the twenty-first century.

Jacques Moreillon, lawyer, Doctor of Political Science, former Director-General of the ICRC, member of the ICRC since 1988, is Secretary-General of the World Organization of the Scout Movement.

International Committee of the Red Cross

ICRC APPOINTS A NEW MEMBER

At its meeting on 11 November 1994, the Assembly of the International Committee of the Red Cross appointed a new member, **Professor Ernst A. Brugger**.

Professor Brugger, of Gossau in the canton of Zurich and Möriken in the canton of Aargau, Switzerland, was born in 1947. He holds a degree in economic geography and a doctorate in natural sciences from the University of Zurich, where he now lectures.

His professional activities have been primarily concerned with sustainable development and development in relation to the environment. He has carried out various studies and programmes on regional and urban development in a number of countries in Africa, Europe, Asia and Latin America.

Since 1985, Professor Brugger is Managing Director of the FUNDES Foundation, a private Swiss-based initiative for the promotion of small enterprises in Latin America.

*
* *

In addition, at its meeting of 7 and 8 December last, the Assembly appointed **Mr. Maurice Aubert** and **Pr. Dietrich Schindler** as honorary members of the Committee.

CONTENTS

1994

Nos. 298-303

ARTICLES

Pages

FOLLOW-UP TO THE INTERNATIONAL CONFERENCE FOR THE PROTECTION OF WAR VICTIMS

(Geneva, 30 August - 1 September 1993)

— I —

| | |
|--|---|
| Editorial: What is at stake | 3 |
| Nikolay Khlestov: International Conference for the Protection of War Victims — What is to follow up the “follow-up”? | 6 |

IMPLEMENTATION OF INTERNATIONAL HUMANITARIAN LAW

| | |
|--|---|
| Umesh Palwankar: Measures available to States for fulfilling their obligation to ensure respect for international humanitarian law | 9 |
|--|---|

IDENTIFICATION

| | |
|---|-----------|
| Entry into force of the amended version of Annex I to Protocol I, concerning technical means of identifying medical units and transports | 27 |
| Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of international armed conflicts (Protocol I): <i>Annex I — Regulations concerning identification</i> <i>(as amended on 30 November 1993)</i> | 29 |

HISTORY OF HUMANITARIAN IDEAS

| | |
|---|-----|
| Dr. Jean Guillermand: The historical foundations of humanitarian action — Part I: <i>The religious influence</i> | 42 |
| — Part II: <i>Humanism and philosophical thought</i> | 194 |

Special

PROHIBITION AND RESTRICTIONS ON THE USE OF CERTAIN WEAPONS

| | |
|--|-----|
| Three key questions, editorial by Yves Sandoz | 93 |
| Henri Meyrowitz: <i>The principle of superfluous injury or unnecessary suffering</i> — From the Declaration of St. Petersburg of 1868 to Additional Protocol I of 1977 | 98 |
| Report of the International Committee of the Red Cross for the Review Conference of the 1980 United Nations Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to have Indiscriminate Effects (ICRC, February 1994) | 123 |
| • Annex I: Results of the Montreux Symposium on Anti-Personnel Mines | 159 |
| • Annex II: Symposium of Military Experts on the Military Utility of Anti-Personnel Mines | 170 |
| Eric Prokosch: Arguments for restricting cluster weapons: humanitarian protection versus “military necessity” | 183 |

REPRESSION OF BREACHES OF INTERNATIONAL HUMANITARIAN LAW

| | |
|--|-----|
| Juan José Quintana: Violations of international humanitarian law and measures of repression: The International Tribunal for the former Yugoslavia | 223 |
| María Teresa Dutli and Cristina Pellandini: The International Committee of the Red Cross and the implementation of a system to repress breaches of international humanitarian law | 240 |

IMPLEMENTATION OF HUMANITARIAN LAW

| | |
|--|-----|
| Krister Thelin: Legal advisers to the armed forces — The Swedish experience | 255 |
|--|-----|

IDENTIFICATION

| | |
|---|-----|
| Gérald C. Cauderay: Means of identification for protected medical transports | 266 |
|---|-----|

Special

ON THE OCCASION OF THE 75TH ANNIVERSARY OF THE INTERNATIONAL FEDERATION OF RED CROSS AND RED CRESCENT SOCIETIES

THE RED CROSS, THE RED CRESCENT AND VULNERABLE COMMUNITIES

| | |
|---|-----|
| Greater solidarity for a more humane approach to development, by Mr. Cornelio Sommaruga, President of the International Committee of the Red Cross | 311 |
| 75th anniversary of the International Federation of Red Cross and Red Crescent Societies, by Mr. Mario Villarroel Lander, President of the Federation | 315 |

– I –

The concept of vulnerability – Identifying vulnerable communities

| | |
|---|-----|
| Jacques Forster: Reversing the spiral of vulnerability | 318 |
| Mary B. Anderson: The concept of vulnerability: beyond the focus on vulnerable groups | 327 |
| Lena Sallin: Vulnerability and capacity assessment in Europe | 333 |

– II –

**Humanitarian agencies and
vulnerable groups**

Case studies

| | |
|--|-----|
| Tim Allen: The United Nations and the homecoming of displaced populations | 340 |
| D. A. Lopes: Vulnerable communities among asylum-seekers | 354 |
| Antoine Degrémont: Communicable diseases, health systems and humanitarian aid in Africa | 360 |
| LaMond Tullis: Illicit drugs and vulnerable communities | 368 |
| Régis De Muylder: The poorest of the poor, partners for a more equitable society | 374 |

– III –

The role of the Federation

| | |
|---|-----|
| Meneca de Mencia: The challenges of human development — The future of the Red Cross in Latin America and the Caribbean | 383 |
| Cleopas Sila Msuya: The role of the Federation in communicable disease prevention and control | 387 |
| George B. Weber: Responding to global change | 395 |

**FOLLOW-UP TO THE INTERNATIONAL CONFERENCE
FOR THE PROTECTION OF WAR VICTIMS**

(Geneva, 30 August - 1 September 1993)

– II –

| | |
|---|-----|
| Introduction | 411 |
| Preparing the meeting of the group of intergovernmental experts for the protection of war victims (Geneva, 23-27 January 1995) | |
| • <i>Note by the Swiss Government</i> (March 1994) | 414 |
| • Protection of war victims — <i>Suggestions of the International Committee of the Red Cross</i> (April 1994) | 425 |
| | 615 |

| | |
|--|-----|
| ● <i>Meeting of legal advisers of National Red Cross and Red Crescent Societies</i> (Geneva, 12-13 September 1994) | 442 |
| ● <i>Preparatory meeting</i> (Geneva, 26-28 September 1994) | 446 |
| Hans-Peter Gasser: Universal acceptance of international humanitarian law — Promotional activities of the ICRC | 450 |
| <i>States party to the most important international humanitarian law treaties</i> (as of 30 September 1994) | 458 |
| María Teresa Dutli: Implementation of international humanitarian law — National measures — <i>Information received by the ICRC on implementation measures taken by the States at the national level</i> | 464 |

1869-1994

125TH ANNIVERSARY OF THE INTERNATIONAL REVIEW OF THE RED CROSS

| | |
|--|-----|
| The 125th anniversary of the <i>International Review of the Red Cross</i>, by Mr. Cornelio Sommaruga, President of the ICRC | 519 |
|--|-----|

PRINCIPLES AND LAW

| | |
|---|-----|
| Jean-Georges Lossier: Anniversary message | 522 |
| Jean Pictet: The formation of international humanitarian law | 526 |

CONTRIBUTIONS TO HISTORY

| | |
|---|-----|
| Jacques Meurant: The 125th anniversary of the <i>International Review of the Red Cross</i> — A faithful record | 532 |
| André Durand: The role of Gustave Moynier in the founding of the Institute of International Law (1873) — The War in the Balkans (1857-1878), The Manual of the Law of War (1880) | 542 |
| Florianne Truninger †: The International Committee of the Red Cross and the Indochina War — From the Japanese defeat to the Geneva Agreements (1945-1954) | 564 |

PROSPECTS FOR THE FUTURE

| | |
|---|-----|
| Jacques Moreillon: The promotion of peace and humanity in the twenty-first century — What role for the Red Cross and the Red Crescent? | 595 |
|---|-----|

**INTERNATIONAL COMMITTEE
OF THE RED CROSS**

| | |
|--|----|
| Convention on prohibitions or restrictions on the use of certain conventional weapons which may be deemed to be excessively injurious or to have indiscriminate effects — <i>Statement of the ICRC to the General Assembly of the United Nations</i> (20 October 1993) (48th session, 1993 — First Committee) | 56 |
| Mines — <i>Introductory statement by the ICRC to the Council of Delegates</i> (Birmingham, 29-30 October 1993) | 61 |

Information

NEWS FROM HEADQUARTERS

| | |
|----------------------------------|-----|
| News from Headquarters | 66 |
| New ICRC Vice-President | 470 |
| ICRC appoints a new member | 611 |

OBITUARY

| | |
|------------------------------|-----|
| <i>Max Petitpierre</i> | 217 |
|------------------------------|-----|

**IN THE RED CROSS AND RED CRESCENT
WORLD**

| | |
|--|-----|
| Dr. Jean Guillermand: The medical and social vocation of the French Red Cross | 287 |
| Isabelle Raboud: Florence Nightingale | 471 |
| | 617 |

Events within the Movement

| | |
|--|------------|
| 26th International Conference of the Red Cross and Red Crescent (Geneva, December 1995) | 219 |
| Seventy-fifth Anniversary of the founding of the International Federation of Red Cross and Red Crescent Societies | 279 |
| ● Official celebration (Paris, 5 May 1994) | 280 |
| ● <i>Address by the President of the ICRC, M. Cornelio Sommaruga, at the Ministry of Foreign Affairs</i> | <i>281</i> |
| ● <i>Address by the President of the Federation, M. Mario Villarroel Lander, at the Ministry of Foreign Affairs</i> | <i>282</i> |
| Statutory meetings of the Movement (Paris, 3-6 May 1994) | 285 |

National Red Cross and Red Crescent Societies

| | |
|---|-----|
| ● <i>ACTIVITIES OF NATIONAL RED CROSS AND RED CRESCENT SOCIETIES</i> | |
| The Polish Red Cross: 75 years of activity — Landmarks in the Society's History from 1919 to the present | 477 |
| ● <i>RECOGNITION OF NATIONAL SOCIETIES</i> | |
| Recognition of the Andorra Red Cross | 296 |
| Recognition of the Red Cross of Equatorial Guinea | 486 |

MISCELLANEOUS

Meetings

| | |
|---|------------|
| International Conference for the Protection of War Victims (Geneva, 30 August - 1 September 1993) — <i>Follow-up by worldwide and regional international organizations</i> | <i>488</i> |
| Regional Seminar for English-speaking African countries (Harare, 31 January-4 February 1994) | 499 |

New Parties to the Conventions and the Protocols

| | |
|---|-----------|
| Declaration by the Federative Republic of Brazil | 67 |
| Declaration by the Republic of Guinea | 67 |
| States party to the Geneva Conventions of 12 August 1949 and to their Additional Protocols of 8 June 1977 (as at 31 December 1993) | 68 |
| The Republic of San Marino ratifies the Protocols | 298 |
| Accession to the Protocols by Ethiopia | 298 |
| Declaration by the Republic of Bulgaria | 399 |
| Accession to the Protocols by the Kingdom of Lesotho | 399 |
| Accession to the Protocols by the Dominican Republic | 400 |
| Declaration by the Portuguese Republic | 400 |
| Declarations by the Republic of Namibia | 502 |

Awards

| | |
|--------------------------------------|-----|
| Award of the Paul Reuter Prize | 299 |
|--------------------------------------|-----|

BOOKS AND REVIEWS

| | |
|--|-----|
| El árbol de la vida (<i>The Red Cross during the Spanish Civil War, 1936-1939</i>) (Josep Carles Clemente) | 78 |
| Choices more ethical than legal — The International Committee of the Red Cross and human rights (David P. Forsythe) | 81 |
| Droit d'ingérence ou obligation de réaction? (<i>The right to intervene or the obligation to react? What can be done to ensure respect for the rights of the individual in the light of the principle of non-intervention</i>) (Olivier Corten and Pierre Klein) | 83 |
| L'action caritative du Saint-Siège en faveur des prisonniers de guerre (1939-1945) (<i>The Holy See and its charity work in behalf of prisoners of war, 1939-1945</i>) (Léon Papeleux) | 300 |
| | 619 |

| | |
|--|-----|
| Voluntary service — Current status report, volunteer management cycle (<i>Mary Harder</i>) | 302 |
| Nouvel ordre mondial et droits de l'homme — La guerre du Golfe (<i>New world order and human rights — The Gulf War</i>) (<i>Paul Tavernier</i> , ed.) | 304 |
| Crimes sans châtimeut — (<i>Crimes without punishment — Humanitarian operations in the former Yugoslavia 1991-1993</i>) (<i>Michèle Mercier</i>) | 401 |
| The Cannes Medical Conference (1-11 April 1919) (<i>Roger Durand et al.</i>) | 404 |
| Principes de droit des conflits armés (<i>Principles of the law of armed conflict</i>) — Paul Reuter Prize 1994 (<i>Eric David</i>) | 503 |
| Il tempo di Zeithain, 1943-1944 (<i>Diary of a young Red Cross nurse</i>) (<i>Maria Vittoria Zeme</i>) | 507 |
| Landmines: A Deadly Legacy (<i>The Arms Project of Human Rights Watch and Physicians for Human Rights</i>) | 509 |
| Contents 1994 | 612 |

ADDRESSES OF NATIONAL RED CROSS AND RED CRESCENT SOCIETIES

- AFGHANISTAN — Afghan Red Crescent Society, Puli Hartan, *Kabul*.
- ALBANIA — Albanian Red Cross, Rue Qamil Guranjaku No. 2, *Tirana*.
- ALGERIA (People's Democratic Republic of) — Algerian Red Crescent, 15 bis, boulevard Mohamed V, *Algiers*.
- ANDORRA — Andorra Red Cross, Prat de la Creu 22, *Andorra la Vella*.
- ANGOLA — Angola Red Cross, Av. Hoji Ya Henda 107, 2. andar, *Luanda*.
- ANTIGUA AND BARBUDA — The Antigua and Barbuda Red Cross Society, P.O. Box 727, *St. Johns*.
- ARGENTINA — The Argentine Red Cross, H. Yrigoyen 2068, 1089 *Buenos Aires*.
- AUSTRALIA — Australian Red Cross Society, 206, Clarendon Street, *East Melbourne 3002*.
- AUSTRIA — Austrian Red Cross, Wiedner Hauptstrasse 32, Postfach 39, 1041, *Vienna 4*.
- BAHAMAS — The Bahamas Red Cross Society, P.O. Box N-8331, *Nassau*.
- BAHRAIN — Bahrain Red Crescent Society, P.O. Box 882, *Manama*.
- BANGLADESH — Bangladesh Red Crescent Society, 684-686, Bara Magh Bazar, G.P.O. Box No. 579, *Dhaka*.
- BARBADOS — The Barbados Red Cross Society, Red Cross House, Jermott Lane, *Bridgetown*.
- BELGIUM — Belgian Red Cross, 98, chaussée de Vleurgat, 1050 *Brussels*.
- BELIZE — Belize Red Cross Society, P.O. Box 413, *Belize City*.
- BENIN (Republic of) — Red Cross of Benin, B.P. No. 1, *Porto-Novo*.
- BOLIVIA — Bolivian Red Cross, Avenida Simón Bolívar, 1515, *La Paz*.
- BOTSWANA — Botswana Red Cross Society, 135 Independence Avenue, P.O. Box 485, *Gaborone*.
- BRAZIL — Brazilian Red Cross, Praça Cruz Vermelha No. 10-12, *Rio de Janeiro*.
- BULGARIA — Bulgarian Red Cross, 93, Dondukov Boulevard, 1527 *Sofia*.
- BURKINA FASO — Burkina Be Red Cross Society, B.P. 340, *Ouagadougou*.
- BURUNDI — Burundi Red Cross, P.O. Box 324, *Bujumbura*.
- CAMBODIA — 17, Vithei of Cambodian Red Cross, *Phnom-Penh*.
- CAMEROON — Cameroon Red Cross Society, rue Henri-Dunant, P.O.B 631, *Yaoundé*.
- CANADA — The Canadian Red Cross Society, 1800 Alta Vista Drive, *Ottawa*, Ontario K1G 4J5.
- CAPE VERDE — Red Cross of Cape Verde, Rua Unidade-Guiné-Cabo Verde, P.O. Box 119, *Praia*.
- CENTRAL AFRICAN REPUBLIC — Central African Red Cross Society, B.P. 1428, *Bangui*.
- CHAD — Red Cross of Chad, B.P. 449, *N'Djamena*.
- CHILE — Chilean Red Cross, Avenida Santa Maria No. 0150, Correo 21, Casilla 246-V., *Santiago de Chile*.
- CHINA — Red Cross Society of China, 53, Ganmian Hutong, 100 010 *Beijing*.
- COLOMBIA — Colombian Red Cross Society, Avenida 68, No. 66-31, Apartado Aéreo 11-10, *Bogotá D.E.*
- CONGO — Congolese Red Cross, place de la Paix, B.P. 4145, *Brazzaville*.
- COSTA RICA — Costa Rica Red Cross, Calle 14, Avenida 8, Apartado 1025, *San José*.
- CÔTE D'IVOIRE — Red Cross Society of Côte d'Ivoire, B.P. 1244, *Abidjan*.
- CROATIA — Croatian Red Cross, Ulica Crvenog kriza 14, 41000 *Zagreb*.
- CUBA — Cuban Red Cross, Calle Prado 206, Colón y Trocadero, *Habana 1*.
- CZECH REPUBLIC — Czech Red Cross, Thunovská 18, 118 04 *Praha 1*.
- DENMARK — Danish Red Cross, 27 Blegdamsvej, Postboks 2600, 2100 *København Ø*.
- DJIBOUTI — Red Crescent Society of Djibouti, B.P. 8, *Djibouti*.
- DOMINICA — Dominica Red Cross Society, P.O. Box 59, *Roseau*.
- DOMINICAN REPUBLIC — Dominican Red Cross, Apartado postal 1293, *Santo Domingo*.
- ECUADOR — Ecuadorean Red Cross, Av. Colombia y Elizalde Esq., *Quito*.
- EGYPT — Egyptian Red Crescent Society, 29, El Galaa Street, *Cairo*.
- EL SALVADOR — Salvadorean Red Cross Society, 17C. Pte y Av. Henri Dunant, Apartado Postal 2672, *San Salvador*.
- EQUATORIAL GUINEA — Red Cross of Equatorial Guinea, Calle Abilio Balboa 92, *Malabo*.
- ESTONIA — Estonia Red Cross, Lai Street, 17, EE001 *Tallin*.
- ETHIOPIA — Ethiopian Red Cross Society, Ras Desta Damtew Avenue, *Addis Ababa*.
- FIIJI — Fiji Red Cross Society, 22 Gorrie Street, P.O. Box 569, *Suva*.
- FINLAND — Finnish Red Cross, Tehtaankatu, 1 A. P.O. Box 168, 00141 *Helsinki 14/15*.
- FRANCE — French Red Cross, 1, place Henry-Dunant, F-75384 *Paris*, CEDEX 08.
- GAMBIA — The Gambia Red Cross Society, P.O. Box 472, *Banjul*.
- GERMANY — German Red Cross, Friedrich-Erbert-Allee 71, Postfach 1460, 53105 *Bonn*.
- GHANA — Ghana Red Cross Society, Ministries Annex Block A3, P.O. Box 835, *Accra*.
- GREECE — Hellenic Red Cross, rue Lycavittou, 1, *Athens 10672*.
- GRENADA — Grenada Red Cross Society, P.O. Box 551, *St George's*.
- GUATEMALA — Guatemalan Red Cross, 3.ª Calle 8-40, Zona 1, *Ciudad de Guatemala*.

- GUINEA — Red Cross Society of Guinea, P.O. Box 376, *Conakry*.
- GUINEA-BISSAU — Red Cross Society of Guinea-Bissau, rua Justino Lopes N.º 22-B, *Bissau*.
- GUYANA — The Guyana Red Cross Society, P.O. Box 10524, Eve Leary, *Georgetown*.
- HAITI — Haitian National Red Cross Society, place des Nations Unies, (Bicentenaire), B.P. 1337, *Port-au-Prince*.
- HONDURAS — Honduran Red Cross, 7.^a Calle, 1.^a y 2.^a Avenidas, *Comayagüela*.
- HUNGARY — Hungarian Red Cross, V. Arany János utca, 31, 1367 *Budapest 51. Pf. 121*.
- ICELAND — Icelandic Red Cross, Raudararstigur 18, 105 *Reykjavik*.
- INDIA — Indian Red Cross Society, 1, Red Cross Road, *New Delhi 110001*.
- INDONESIA — Indonesian Red Cross Society, Jl. Gatot subroto Kar. 96, Jakarta Selatan 12790, P.O. Box 2009, *Jakarta*.
- IRAN, ISLAMIC REPUBLIC OF — The Red Crescent Society of the Islamic Republic of Iran, Avenue Ostad Nejatollahi, *Tehran*.
- IRAQ — Iraqi Red Crescent Society, Mu'ari Street, Mansour, *Baghdad*.
- IRELAND — Irish Red Cross Society, 16, Merrion Square, *Dublin 2*.
- ITALY — Italian Red Cross, 12, via Toscana, 00187 *Rome*.
- JAMAICA — The Jamaica Red Cross Society, 76, Arnold Road, *Kingston 5*.
- JAPAN — The Japanese Red Cross Society, 1-3, Shiba-Daimon, I-chome, Minato-Ku, *Tokyo 105*.
- JORDAN — Jordan National Red Crescent Society, P.O. Box 10001, *Amman*.
- KENYA — Kenya Red Cross Society, P.O. Box 40712, *Nairobi*.
- KOREA (Democratic People's Republic of) — Red Cross Society of the Democratic People's Republic of Korea, Ryonhwa 1, Central District, *Pyongyang*.
- KOREA (Republic of) — The Republic of Korea National Red Cross, 32-3Ka, Nam San Dong, Choong-Ku, *Seoul 100-043*.
- KUWAIT — Kuwait Red Crescent Society, P.O. Box 1359 Safat.
- LAO PEOPLE'S DEMOCRATIC REPUBLIC — Lao Red Cross, B.P. 650, *Vientiane*.
- LATVIA — Latvian Red Cross Society, 28, Skolas Street, 226 300 *Riga*.
- LEBANON — Lebanese Red Cross, rue Spears, *Beirut*.
- LESOTHO — Lesotho Red Cross Society, P.O. Box 366, *Maseru 100*.
- LIBERIA — Liberian Red Cross Society, National Headquarters, 107 Lynch Street, 1000 *Monrovia 20*.
- LIBYAN ARAB JAMAHIRIYA — Libyan Red Crescent, P.O. Box 541, *Benghazi*.
- LIECHTENSTEIN — Liechtenstein Red Cross, Heiligkreuz, 9490 *Vaduz*.
- LITHUANIA — Lithuanian Red Cross Society, Gedimino Ave 3a, 2600 *Vilnius*.
- LUXEMBOURG — Luxembourg Red Cross, Parc de la Ville, B.P. 404, 2014 *Luxembourg*.
- MADAGASCAR — Malagasy Red Cross Society, 1, rue Patrice Lumumba, 101, *Antananarivo*.
- MALAWI — Malawi Red Cross Society, Conforzi Road, P.O. Box 983, *Lilongwe*.
- MALAYSIA — Malaysian Red Crescent Society, JKR 32 Jalan Nipah, off Jalan Ampang, *Kuala Lumpur 55000*.
- MALI — Mali Red Cross, B.P. 280, *Bamako*.
- MALTA — Malta Red Cross Society, 104, St. Ursula Street, Valetta, *Malta*.
- MAURITANIA — Mauritanian Red Crescent, B.P. 344, avenue Gamal Abdel Nasser, *Nouakchott*.
- MAURITIUS — Mauritius Red Cross Society, Ste Thérèse Street, *Curepipe*.
- MEXICO — Mexican Red Cross, Calle Luis Vives 200, Col. Polanco, *México 10, D.F.*
- MONACO — Red Cross of Monaco, 27 boul. de Suisse, *Monte Carlo*.
- MONGOLIA — Red Cross Society of Mongolia, Central Post Office, Post Box 537, *Ulaanbaatar*.
- MOROCCO — Moroccan Red Crescent, B.P. 189, *Rabat*.
- MOZAMBIQUE — Mozambique Red Cross Society, Caixa Postal 2986, *Maputo*.
- MYANMAR (The Union of) — Myanmar Red Cross Society, 42, Strand Road, *Yangon*.
- NAMIBIA — Namibia Red Cross Society, P.O.B. 346, *Windhoek*.
- NEPAL — Nepal Red Cross Society, Tahachal Kalimati, P.B. 217, *Kathmandu*.
- NETHERLANDS — The Netherlands Red Cross, P.O. Box 28120, 2502 *KC The Hague*.
- NEW ZEALAND — The New Zealand Red Cross Society, Red Cross House, 14 Hill Street, *Wellington 1*.
- NICARAGUA — Nicaraguan Red Cross, Apartado 3279, *Managua D.N.*
- NIGER — Red Cross Society of Niger, B.P. 11386, *Niamey*.
- NIGERIA — Nigerian Red Cross Society, 11 Eko Akete Close, off St. Gregory's Rd., P.O. Box 764, *Lagos*.
- NORWAY — Norwegian Red Cross, P.O. Box 6875, St. Olavsp. 0130 *Oslo 1*.
- PAKISTAN — Pakistan Red Crescent Society, National Headquarters, Sector H-8, *Islamabad*.
- PANAMA — Red Cross Society of Panama, Apartado Postal 668, *Panamá 1*.
- PAPUA NEW GUINEA — Papua New Guinea Red Cross Society, P.O. Box 6545, *Boroko*.
- PARAGUAY — Paraguayan Red Cross, Brasil 216, esq. José Berges, *Asunción*.
- PERU — Peruvian Red Cross, Av. Caminos del Inca y Av. Nazarenas, Urb. Las Gardenias — Surco — Apartado 1534, *Lima 100*.
- PHILIPPINES — The Philippine National Red Cross, Bonifacio Drive, Port Area, P.O. Box 280, *Manila 2803*.
- POLAND (The Republic of) — Polish Red Cross, Mokotowska 14, 00-950 *Warsaw*.
- PORTUGAL — Portuguese Red Cross, Jardim 9 Abril, 1 a 5, 1293 *Lisbon*.
- QATAR — Qatar Red Crescent Society, P.O. Box 5449, *Doha*.
- ROMANIA — Red Cross of Romania, Strada Biserica Amzei, 29, *Bucharest*.
- RUSSIAN FEDERATION — The Russian Red Cross Society, Tcheremushkinski Proezd 5, 117036 *Moscow*.
- RWANDA — Rwandese Red Cross, B.P. 425, *Kigali*.

- SAINT KITTS AND NEVIS — Saint Kitts and Nevis Red Cross Society, Red Cross House, Horsford Road, *Basseterre*.
- SAINT LUCIA — Saint Lucia Red Cross, P.O. Box 271, *Castries*.
- SAINT VINCENT AND THE GRENADINES — Saint Vincent and the Grenadines Red Cross Society, P.O. Box 431, *Kingstown*.
- SAN MARINO — Red Cross of San Marino, Via Scialoja, Cailungo, *San Marino 470 31*.
- SAO TOME AND PRINCIPE — Sao Tome and Principe Red Cross, C.P. 96, *São Tomé*.
- SAUDI ARABIA — Saudi Arabian Red Crescent Society, *Riyadh 11129*.
- SENEGAL — Senegalese Red Cross Society, Bd Franklin-Roosevelt, P.O.B. 299, *Dakar*.
- SEYCHELLES — Seychelles Red Cross Society, P.O.B. 52, *Mahé*.
- SIERRA LEONE — Sierra Leone Red Cross Society, 6, Liverpool Street, P.O.B. 427, *Freetown*.
- SINGAPORE — Singapore Red Cross Society, Red Cross House, 15 Penang Lane, *Singapore 0923*.
- SLOVAKIA — Slovak Red Cross, Grosslingova 24, 81446 *Bratislava*.
- SLOVENIA — Red Cross of Slovenia, Mirje 19, 61000 *Ljubljana*.
- SOLOMON ISLANDS — The Solomon Islands Red Cross Society, P.O. Box 187, *Honiara*.
- SOMALIA (Somali Democratic Republic) — Somali Red Crescent Society, P.O. Box 937, *Mogadishu*.
- SOUTH AFRICA — The South African Red Cross Society, 25, Erlswold way, Saxonwold 2196, P.O. Box 2829, *Parklands 2121*.
- SPAIN — Spanish Red Cross, Rafael Villa, s/n, (Vuelta Ginés Navarro), El Plantío, 28023 *Madrid*.
- SRI LANKA — The Sri Lanka Red Cross Society, 106, Dharmapala Mawatha, *Colombo 7*.
- SUDAN — The Sudanese Red Crescent, P.O. Box 235, *Khartoum*.
- SURINAME — Suriname Red Cross, Gravenberchstraat 2, Postbus 2919, *Paramaribo*.
- SWAZILAND — Baphalali Swaziland Red Cross Society, P.O. Box 377, *Mbabane*.
- SWEDEN — Swedish Red Cross, Box 27 316, 102-54 *Stockholm*.
- SWITZERLAND — Swiss Red Cross, Rainmattstrasse 10, B.P. 2699, 3001 *Berne*.
- SYRIAN ARAB REPUBLIC — Syrian Arab Red Crescent, Bd Mahdi Ben Barake, *Damascus*.
- TANZANIA, UNITED REPUBLIC OF — Tanzania Red Cross National Society, Upanga Road, P.O.B. 1133, *Dar es Salaam*.
- THAILAND — The Thai Red Cross Society, Paribatra Building, Central Bureau, Rama IV Road, *Bangkok 10330*.
- TOGO — Togolese Red Cross, 51, rue Boko Soga, P.O. Box 655, *Lomé*.
- TONGA — Tonga Red Cross Society, P.O. Box 456, *Nuku' Alofa*.
- TRINIDAD AND TOBAGO — The Trinidad and Tobago Red Cross Society, P.O. Box 357, *Port of Spain*.
- TUNISIA — Tunisian Red Crescent, 19, rue d'Angleterre, *Tunis 1000*.
- TURKEY — The Turkish Red Crescent Society, Genel Başkanlığı, Karanfil Sokak No. 7, 06650 Kizilay-*Ankara*.
- UGANDA — The Uganda Red Cross Society, Plot 97, Buganda Road, P.O. Box 494, *Kampala*.
- UKRAINE — Red Cross Society of Ukraine, 30, ulitsa Pushkinskaya, 252004 *Kiev*.
- UNITED ARAB EMIRATES — The Red Crescent Society of the United Arab Emirates, P.O. Box No. 3324, *Abu Dhabi*.
- UNITED KINGDOM — The British Red Cross Society, 9, Grosvenor Crescent, *London, S.W.1X. 7EJ*.
- UNITED STATES OF AMERICA — American Red Cross, 17th and D Streets, N.W., *Washington, D.C. 20006*.
- URUGUAY — Uruguayan Red Cross, Avenida 8 de Octubre 2990, *Montevideo*.
- VANUATU — Vanuatu Red Cross Society, P.O. Box 618, *Port Vila*.
- VENEZUELA — Venezuelan Red Cross, Avenida Andrés Bello, N.º 4, Apartado 3185, *Caracas 1010*.
- VIET NAM — Red Cross of Viet Nam, 68, rue Ba-Triêu, *Hanoi*.
- WESTERN SAMOA — Western Samoa Red Cross Society, P.O. Box 1616, *Apia*.
- YEMEN — Yemeni Red Crescent Society, P.O. Box 1257, *Sana'a*.
- YUGOSLAVIA — Yugoslav Red Cross, Simina ulica broj 19, 11000 *Belgrade*.
- ZAIRE — Red Cross Society of the Republic of Zaire, 41, av. de la Justice, Zone de la Gombe, B.P. 1712, *Kinshasa*.
- ZAMBIA — Zambia Red Cross Society, P.O. Box 50 001, 2837 Saddam Hussein Boulevard, Longacres, *Lusaka*.
- ZIMBABWE — The Zimbabwe Red Cross Society, P.O. Box 1406, *Harare*.

SYMPOSIUM ON HUMANITARIAN ACTION AND PEACE-KEEPING OPERATIONS

(Geneva, 22-24 June 1994)

REPORT

Editor

UMESH PALWANKAR

Legal Division of the ICRC

This book contains the proceedings of a Symposium organized by the International Committee of the Red Cross on the subject of Humanitarian Action and Peace-keeping Operations. The participants included military and civilian personnel having field experience, members of the United Nations Secretariat from the Office of Legal Affairs and the Department of Peace-keeping Operations, government officials, representatives of intergovernmental and non-governmental organizations, and academicians working in this field. The discussions held dealt with several fundamental issues such as the interface between the humanitarian and the military aspects of peace-keeping operations, the application of international humanitarian law, the consent factor in the State of operation, the possibility of resorting to coercive action in furnishing humanitarian assistance and its consequences, and the training of the troops involved.

The International Committee of the Red Cross has published this report in the hope that the Symposium will contribute to a better understanding of a complex and new phenomenon in international relations. Such an understanding could represent a step towards the ultimate goal of better protecting and assisting all those who suffer wherever a situation of armed conflict prevails.

This book, published by the ICRC, is now being translated into **French** and **Spanish**.

Orders should be sent to the ICRC — COMREX/DIP, 19, Avenue de la Paix, CH-1202 Geneva.

Price: 12 Swiss Francs.

The *International Review of the Red Cross* is the official publication of the International Committee of the Red Cross. It was first published in 1869 under the title "Bulletin international des Sociétés de secours aux militaires blessés", and then "Bulletin international des Sociétés de la Croix-Rouge".

The *International Review of the Red Cross* is a forum for reflection and comment and serves as a reference work on the mission and guiding principles of the International Red Cross and Red Crescent Movement. It is also a specialized journal in the field of international humanitarian law and other aspects of humanitarian endeavour.

As a chronicle of the international activities of the Movement and a record of events, the *International Review of the Red Cross* is a constant source of information and maintains a link between the components of the International Red Cross and Red Crescent Movement.

The *International Review of the Red Cross* is published every two months, in four main editions:

French: REVUE INTERNATIONALE DE LA CROIX-ROUGE (since October 1869)

English: INTERNATIONAL REVIEW OF THE RED CROSS (since April 1961)

Spanish: REVISTA INTERNACIONAL DE LA CRUZ ROJA (since January 1976)

Arabic: المجلة الدولية للصليب الأحمر (since May-June 1988)

Selected articles from the main editions have also been published in German under the title *Auszüge* since January 1950.

EDITOR: Jacques Meurant, D. Pol. Sci.

ADDRESS: International Review of the Red Cross
19, avenue de la Paix
1202 Geneva, Switzerland

SUBSCRIPTIONS: one year, 30 Swiss francs or US\$ 18
single copy, 5 Swiss francs

Postal cheque account No. 12 - 1767-1 Geneva

Bank account No. 129.986.0, Swiss Bank Corporation, Geneva

The *International Committee of the Red Cross (ICRC)* and the *International Federation of Red Cross and Red Crescent Societies*, together with the *National Red Cross and Red Crescent Societies*, form the International Red Cross and Red Crescent Movement.

The *ICRC*, which gave rise to the Movement, is an independent humanitarian institution. As a neutral intermediary in the event of armed conflict or unrest it endeavours, on its own initiative or on the basis of the Geneva Conventions, to bring protection and assistance to the victims of international and non-international armed conflict and internal disturbances and tension.

INTERNATIONAL
REVIEW

1869-1994

**125TH ANNIVERSARY OF THE
*INTERNATIONAL REVIEW OF THE RED CROSS***